



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144

WASHINGTON, WEDNESDAY, JULY 8, 1998

No. 89

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 14, 1998, at 12:30 p.m.

Senate

WEDNESDAY, JULY 8, 1998

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we come to You as Your daughters and sons because there is no other place we can go where love is as freely given, costly forgiveness as graciously offered, assurance of our value more creatively communicated, and where our hurts are more effectively healed. You know us as we are. In a world where we are not permitted to be weak, You receive us with our weaknesses and make us strong. In an atmosphere where we are compelled to win and spin, it is good to be able to be real with You. May the strength and security of this quiet moment with You prepare us for a day in which we can enjoy life, work creatively together in spite of misunderstandings, and bring delight to the people You have entrusted to be our family and friends. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ROTH. Thank you, Mr. President.

SCHEDULE

Mr. ROTH. Mr. President, this morning the Senate will immediately re-

sume consideration of the IRS reform conference report. It is expected that there will be lengthy debate during today's session on the conference report, with a final vote occurring by late afternoon. In addition to the conference report, the Senate may consider any other legislative or executive items that may be cleared for action.

Members are reminded that a cloture motion was filed last night to the substitute amendment to the product liability bill. Therefore, Senators have until 1 p.m. today to file first-degree amendments to the substitute. The cloture vote will occur on Thursday, July 9, at a time to be determined by the two leaders.

Once again, the majority leader would like to remind Members that July will be a busy month, with late night sessions and votes. The cooperation of all Members will be necessary for the Senate to complete its work prior to the August recess.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. AL-LARD). Under the previous order, the leadership time is reserved.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 2676, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 2676, an act to amend the Internal Revenue Code of 1986, to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if my colleagues' July Fourth recess was anything like mine, then they heard a great deal from their constituents concerning the bill that we bring to the floor today. The Internal Revenue Service Restructuring and Reform Act of 1998 is legislation that not only has the interests but the support of Americans everywhere, and with good reason.

For far too long, the Internal Revenue Service has been allowed to consolidate immense power without the counterbalance of accountability. For far too long, the agency has been allowed to operate in darkness, hiding behind section 6103 authority, using authority granted them by Congress to, in some cases, bludgeon taxpayers.

Last summer, the National Commission on Restructuring the IRS, following an extensive review of the IRS, issued a report that called for major changes to the agency.

In September, the Finance Committee held 3 days of hearings which identified numerous additional problems and some terrible, even unconscionable taxpayer and IRS-employee abuses within the IRS.

Those hearings were followed by others which demonstrated clearly that

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper containing 100% post consumer waste

S7621

the Service was in need of serious reform. And we heard from taxpayers, tax collectors, tax practitioners. We heard from small business men and women. We heard from innocent spouses. And we listened to outrageous stories from innocent Americans who, for no valid reason, got caught in the crosshairs of an organization that was driven by quotas and lacking in oversight.

Our outrage knew no partisan line. Colleagues on both sides of the aisle were offended by many of the stories. To the witnesses—many of whom testified without knowing what their efforts would bring—we apologized as best we could. We said that we would press forward, and we promised reform. That, Mr. President, is what we are delivering today.

This is the bipartisan conference agreement on a plan that will effectively change the way the Internal Revenue Service does business. It represents the most comprehensive overhaul of the IRS ever enacted. It combines the House and Senate bills and incorporates the many good suggestions offered by the Agency's new Commissioner, Charles Rossotti.

Let me be clear on just how important Mr. Rossotti has been to our efforts. Following our Finance Committee hearings, he had courage enough to release a report that validated the concerns we raised. Rather than try to throw up a wall or confuse issues, he made a commitment to reform. Every step we have taken he has taken with us.

Commissioner Rossotti and I have met on many occasions, and he has testified before our committee. We have attended taxpayer service days together. He has advocated a new management plan that could revolutionize the way the Internal Revenue Service does business.

I am also grateful for the taxpayers and the many current and former IRS employees who came before our committee. These were courageous individuals, and without them, there would be no reform. And they represent only a fraction of those who met with us, who wrote to us, who called, and, in the process, moved our investigation forward. Likewise, I am grateful to my colleagues—Senator MOYNIHAN, a defining presence in the Senate, if ever there was one. I am grateful to Senators CHARLES GRASSLEY and BOB KERREY and their efforts on the National Restructuring Commission.

Working with Congressman PORTMAN, and others, they got the ball rolling early on, and were leaders in this effort. I thank Chairman BILL ARCHER for the work he did on the Ways and Means Committee, for the spirit of cooperation he brought to the conference, and for the success he had two weeks ago in getting this legislation approved overwhelmingly in the House.

Now, the time has come, Mr. President, to pass it here—legislation that will open the door to real restructuring

and reform of what can only be considered the most powerful agency in the United States government.

This legislation is built on four principles:

The first principle is to establish independent oversight of the agency to prevent abuses against taxpayers and against employees. One of the major concerns we heard throughout our oversight initiative was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. This legislation requires the agency to establish an independent Office of Appeals—one that may not be influenced by tax collection employees or auditors.

Appeals officers will be made available in every state, and they will be better able to work with taxpayers who proceed through the appeals process.

Mr. President, agency employees made it clear that there is no dependable and consistent mechanism in place to represent taxpayer interests. Just as this bill will give the appeals process greater independence, it will also make the Office of Taxpayer Advocate as well as local problem resolution officers more independent.

In the future, the Secretary of Treasury, rather than the Commissioner will appoint the National Taxpayer Advocate. And the Taxpayer Advocate will be just that. Criteria to fill this position will include that the Advocate must not be an IRS employee two years before and five years after holding this position. In addition, this bill provides the Advocate with greater ability to issue an assistance order to help taxpayers.

To ensure that independent review and accountability become part of the IRS culture—top to bottom—our legislation creates a nine-member IRS Oversight Board—a board composed of six experts from various professional fields in the private sector, the Commissioner, the Secretary of Treasury, and a full-time Federal employee, or a representative of employees. This board will be independent of influence from management and the senior executive corps. It will be able to monitor and hold managers and executives accountable for their actions, and the actions of their employees.

Under our legislation, the Oversight Board will have broad responsibility and will ensure that the IRS has procedures in place to carry out its mission. I anticipate that the Board will be able to nip problems in the bud so that the IRS will not have to endure embarrassing Congressional hearings that expose systemic problems that should have been identified and addressed.

These measures will go a long way toward protecting taxpayers and IRS personnel. To further protect IRS employees, this legislation creates a new Treasury Inspector General for Tax Administration. We heard far too often in our hearings that the current IRS Office of Chief Inspector does not have

sufficient independence to adequately fulfill its obligation. Likewise, the current Treasury Inspector General lacks resources and has experienced problems of its own in providing seamless oversight of the agency.

The new Treasury IG for Tax Administration will have greater independence than the IRS Chief Inspector.

This provision is supported by Secretary Rubin and Commissioner Rossotti, and it will create a structure where the new Treasury IG for Tax Administration will not allow oversight to fall through the cracks. This new Treasury IG for Tax Administration will provide independent investigations of alleged IRS employee misconduct without management interference.

The new Treasury IG will also respond in a timely manner to requests to investigate or audit made by the Commissioner or the IRS Oversight Board.

Now, these measures will go a long way toward combating the intimidating culture that witnesses testified exists within the agency. They will provide independent protections and promote an agency that the public trusts—an agency that the employees can be proud of.

The second principle incorporated in this legislation is to hold IRS employees accountable for their actions and to reward those who treat the taxpayer fairly. One of the problems we discovered in our hearings is that the Commissioner did not have the kind of authority that is necessary to streamline management and remove managers who contaminate the culture of the agency. Additionally, we found that the Commissioner does not have sufficient authority to hire those who will work toward making the kinds of changes that are necessary.

This legislation changes that. It provides the Commissioner the tools he needs to hire top-flight managers who are experts in their field. It gives the Commissioner the wherewithal to transform the agency's work force by providing bonuses and other incentives, and to sufficiently discipline employees whose inappropriate actions harm the image and effectiveness of the agency.

This bill requires the IRS to terminate an employee if it is proven that the employee willfully failed to obtain required authorization to seize a taxpayer's property, committed perjury material to a taxpayer's matter, or falsified or destroyed documents to conceal the employee's mistakes with respect to a taxpayer's case. It allows terminations to take place if an IRS employee engages in abuses or egregious misconduct.

Conditions for which an employee can be dismissed include, but are not limited to, assaulting or battering a taxpayer or other IRS employee, violating the civil rights of a taxpayer or other IRS employee, or breaking the law, regulations, or IRS policies for the purpose of retaliating or harassing a

taxpayer or other IRS employee. Our legislation also allows an employee to be fired for willfully misusing section 6103 authority to conceal information from Congress.

As I have said before, an environment that allows employees guilty of these kinds of behaviors to continue to work within the system is not acceptable to me, the Finance Committee, or to the American people. We have heard enough excuses. The time has come for change. And this legislation allows needed changes to take place.

The third principle advocated by this legislation is to ensure that taxpayers are protected, that they have due process during collections activities. This includes requiring the IRS to obtain court approval before seizing a home.

It also ensures that the burden of proof be lifted off the shoulders of the taxpayer when it's appropriate and placed on the agency. It allows necessary and long-overdue reforms to the interest and penalty system. This will guard taxpayers against the outrageous and often overbearing financial liability that occurs when the agency moves too slowly.

With this legislation, the burden of proof is shifted to the IRS if the taxpayer maintains records, cooperates with the agency, and provides credible evidence to the court. In addition, the IRS will have the burden of proving a taxpayer's income if it uses arbitrary statistics to determine that income.

Another major taxpayer protection in this legislation is our provision to strengthen innocent spouse relief. Some of the most tragic stories our committee heard concerned innocent spouses whose lives have been ruined by the unrelenting pursuit of IRS collections officers.

This legislation allows divorced or separated spouses to elect to limit their liability for a tax deficiency to the amount of the tax that is attributable to their income. In this way, they will not be held liable for income earned by their spouse. Beyond expanding innocent spouse relief, this legislation allows the Secretary of the Treasury to provide equitable relief if innocent spouse relief is otherwise unavailable. It makes relief retroactive to help those innocent spouses who are still being hounded by the IRS.

Let me say, however, that relief will not be available in cases of fraud, or if the IRS proves the taxpayer claiming innocent spouse relief had actual knowledge of an item giving rise to the tax liability.

Beyond this, with this legislation, we make necessary and important changes to how penalties and interest are applied. In order to prevent IRS employees from arbitrarily using penalties as leverage against taxpayers, this bill requires non-computer determined penalties to be approved by management.

Furthermore, each notice to taxpayers which includes a penalty or interest must specify how the amount was calculated. If a taxpayer enters

into an installment agreement, the monthly failure-to-pay-penalty is cut in half.

Under this bill, if the IRS does not provide a notice of deficiency—or other form of notification of the specific amount of taxes due—within eighteen months after a return is timely filed, then interest and penalties will be suspended until the taxpayer is actually notified.

This eighteen month period will be reduced to twelve months in the year 2004, as the agency improves its ability to notify taxpayers of their deficiencies. In this way it is the IRS, not the taxpayer, who bears the burden of IRS delay.

These enhanced rights are meant to protect honest taxpayers. We do not excuse those who evade their responsibility or cheat on their income tax returns. The protections contained in this legislation exclude the failure to file, failure to pay, and penalties related to fraud.

Finally, Mr. President, the fourth principle this legislation advances is to provide the Commissioner the tools necessary to take the IRS into the 21st century. It directs Commissioner Rossotti to eliminate the current national office, regional office and district office structure of the IRS.

It gives him the authority to replace these antiquated management models with operating units that will directly serve particular groups of taxpayers, better meeting their needs and making the agency much more efficient and user-friendly. As I have said before, Commissioner Rossotti should be complimented on his tremendous work and managerial skills. His plan to restructure the agency is as bold as it is necessary, and this legislation gives him the authority he needs to move forward.

And moving forward is what this legislation is all about—to usher the IRS into a new era of accountability—to provide taxpayers with the protections they deserve—to bring efficiency and modern management to an organizational structure that dates back to before the industrial age. With this legislation, we bring a promise of hope to honest taxpayers and hard-working employees who have waited far too long. We bring responsibility and greater openness.

We focus on the need for service and fairness. With this legislation, Commissioner Rossotti will be able to transform the IRS, make it more effective and intolerant of corruption and abuse of power.

I appreciate all the work that has gone into this bill—for the many hours and weekends given by Senators, Congressmen, and staff. Particularly, I want to thank Frank Polk, Mark Prater, Tom Roesser, Mark Patterson, Nick Giordano, and our committee investigators.

I want to thank Lindy Paull, and the staff on the Joint Tax Committee—Barry Wold, Mel Schwarz, Cecily Rock

and Mike Udell. Again, I am grateful to Senator MOYNIHAN—for his leadership and dedication to this cause. I am grateful to my colleagues on both sides of the aisle who stood firm for legislation with teeth—who, in seeking change, demanded real change—real reforms. That's what we offer today. I am proud of this bill. Americans have every reason to celebrate. They have let their desire be known, and, Mr. President, they have been heard.

SEC. 1101—IRS OVERSIGHT BOARD

Mr. President, there has been substantial debate on whether a Treasury employees union representative should have a designated seat on the IRS Oversight Board. I agree with many of my colleagues that a representative of IRS employees should not be provided a position on the IRS Oversight Board because such member would be subject to a substantial conflict of interest. I did not include an IRS employee representative on the IRS Oversight Board in my original chairman's mark. However, the members of the Finance Committee voted to include an IRS employees representative on the board and to waive the criminal conflict of interest laws for this particular board member. Amendments to these provisions were considered by the full Senate and defeated.

During conference negotiations, the Department of Justice opined that "The employee-representative restriction in the bill would impermissibly limit the President's appointment power in violation of the Constitution." The Department of Justice suggested alternative language to avoid the Constitutional problem. In response to the Constitutional problems raised by the Department of Justice, the conferees agreed that one member of the IRS Oversight Board shall be a full time Federal employee or a representative of employees. The conferees also incorporated Justice's recommendation that this board member receive the same compensation as other board members who are not government employees. The Department of Justice also recommended that the employee representative should not be exempt from the conflict of interest laws. As a compromise, the conferees agreed to delete the provision which would exempt the employee representative from the conflict of interest laws. However, at the time of nominating this particular board member, the President could seek a waiver of the criminal conflict of interest laws to the extent such waiver is necessary to allow such member to participate in the decisions of the Board.

Waiving criminal conflict of interest laws for one person is a very serious matter and should not be taken lightly. As such, the bill requires the President to submit a written intent of waiver along with the actual waiver language to the Senate with the nomination of such member. I anticipate that the President would seriously consider the ramifications of nonnominating

an individual with inherent conflicts of interests. If, in the President's judgment, such an individual must be on the IRS Oversight Board, the President must submit a written statement of intent to waive the criminal conflict of interest laws. To be effective, the waiver must be provided verbatim with the nomination of such individual.

While I would have preferred the language in my original chairman's mark, this conference agreement addresses the competing concerns of my colleagues as well as the Constitutional problems raised by the Administration.

In September 1997 and April 1998, the Finance Committee held several days of oversight hearings regarding IRS practices and procedures. These eye-opening hearing revealed improper and inappropriate IRS practices and in some situations violation of the law. I, along with those taxpayers who watched the hearings, was shocked and deeply troubled with the practices of the IRS. I believe that proper oversight by Congress and the Administration should have reduced or even prevented such activity from occurring. One of the most important functions of the IRS Oversight Board is to prevent taxpayer abuse. The Oversight Board must have access to information that will enable the board to reveal problems, bring problems to the attention of the Commissioner to address, and inform Congress if the Commissioner does not address problems. The Oversight Board should have "big picture" oversight authority over law enforcement activity, including examinations, collection activity, and criminal investigations. Taxpayers must be protected from improper and/or illegal activity. Hopefully, the Oversight Board, rather than a congressional committee, will nip problems in the bud and keep the IRS on a straight course.

SEC. 1102—COMMISSIONER AND OTHER OFFICIALS

The bill alters the reporting relationship between the IRS Chief Counsel and the Treasury General Counsel. The bill requires the IRS Chief Counsel to report directly to the Commissioner except for the extremely limited situations where an issue relates solely to tax policy. It is intended that "tax policy" would be limited to recommendations relating to tax legislation and the drafting of treaties. The Chief Counsel will report to both the Commissioner and to the Treasury General Counsel with respect to tax litigation and legal advice or interpretation of the tax law not relating solely to tax policy. In the rare circumstance where there is a dispute between the Commissioner and the Treasury General Counsel, the matter must be submitted to the Secretary or Deputy Secretary for resolution. The Commissioner, as the client, must be able to make a decision based upon the legal advice provided by the Chief Counsel. Neither the Treasury General Counsel nor any other Treasury official (other than the Secretary or Deputy Secretary) may overrule the Commissioner's decisions. The

Secretary or Deputy Secretary may not delegate this authority to someone else. For example, the Commissioner should be able to decide whether to proceed with a litigation matter or recommend that a case be appealed. If the Treasury General Counsel disagrees, then the issue should be resolved only by the Secretary or Deputy Secretary. Furthermore, the Commissioner should have the ability to interpret the tax law and issue guidance in various forms. The Commissioner should be able to expeditiously issue guidance including regulations, revenue ruling and revenue procedures, technical advice and other similar memoranda, private letter rulings and other published guidance. Once again, if there is a disagreement between the Commissioner and the Treasury General Counsel, the issue must be resolved by the Secretary or the Deputy Secretary.

SEC. 1103—TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

The bill transfers the IRS Office of Chief Inspector's function to a new Treasury Inspector General for Tax Administration which will provide more effective and efficient oversight over the IRS. The current system in which the Treasury Inspector General, with its limited resources and tax expertise, attempted to provide oversight along with the IRS Office of Chief Inspector which some believed lacked sufficient independence from management, simply did not provide adequate and independent oversight. I was appalled with the current system which allowed issues to fall through the cracks, included little or no ability to follow up on issues, or even to timely investigate media allegations of outrageous taxpayer abuse.

The time has come to provide a new, credible Treasury Inspector General for Tax Administration which has the resources and expertise to independently audit and investigate problems within the IRS. Coupled with the IRS Oversight Board and a new more independent National Taxpayer Advocate, this provision in the bill will provide yet another check on the bureaucracy within the IRS to ensure that taxpayers and their problems don't slip through the cracks. While the vast majority of IRS employees are honest, hardworking, and law-abiding, enhanced oversight will help ensure that taxpayers are treated properly.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in the first instance to thank our revered chairman, Senator ROTH, chairman of the Finance Committee, who brings this measure to the floor with the unanimous vote of the Finance Committee. From the first, ours has been, under his direction, a non-partisan effort to deal with a non-partisan issue of the first order of consequence. We are equally, in turn, grateful for the work of the National Commission on Restructuring the In-

ternal Revenue Service. Senators KERREY and GRASSLEY of our committee and Congressmen PORTMAN and COYNE from the House side contributed significantly to shaping the concept of the Internal Revenue Service as a customer-based agency, as they put it.

I believe, sir, that we have done this. We have done it with the aid and the cooperation and the participation of Chairman BILL ARCHER and ranking member CHARLES B. RANGEL of the Committee on Ways and Means in the House, who worked with us on the committee of conference. Senator ROTH was chairman. And the result before you is an exceptional piece of legislation—and not an everyday event.

The Internal Revenue Service became a permanent part of our government in 1862 as part of the Civil War Income Tax Act, which was signed into law July 1, 1862, by President Abraham Lincoln. That was almost a century and a half ago. Yet it was not until just last September that the full Finance Committee of the Senate exercised its oversight jurisdiction to ask, how is this enterprise working and where is it going? The hearing illustrated the need for changes at the IRS and encouraged the thinking on the subject which has produced the measure we bring before you today.

As evidence of the process already underway by the unanimous confirmation of this body, Mr. Charles O. Rossotti became the Commissioner of Internal Revenue. This was a stroke of administrative inspiration by Secretary Rubin, who went out into the private sector looking not for a tax lawyer—an honorable profession; normally the Commissioners of the IRS have been tax lawyers—but instead for an administrator. He found the head of a large company that specialized in information services of a wide variety, and who was prepared to do this as a public service and not to continue in the line that has been of a particular profession, the practice of tax law.

We have established an IRS oversight board of six private persons, the Secretary of the Treasury, and the representative of the IRS employees, and finally the Commissioner of the IRS itself. The board will be responsible for setting the strategic direction and goals of the agency, while the Commissioner will continue to manage day-to-day operations. The Finance Committee—and then the Senate—specifically voted to include the Secretary and employee representative on the board.

The conference agreement, which maintained this arrangement, passed the House by a vote of 402 to 8. With the Secretary of the Treasury on the board, the board will know things it cannot otherwise learn. The U.S. Secretary of the Treasury is a world figure. His presence on the board gives it stature within the Government and with the public. The fear was that otherwise it would lapse into a sort of advisory mode that would fail to serve the objectives of this "reform and restructuring" legislation.

We are pleased that the agreement maintains the position on the board for a representative of the IRS employees. The representative will be able to work cooperatively on the inside rather than working in opposition from the outside.

An ongoing problem is how to attract top executives to a government activity which has its counterpart in the private sector where compensation—if I may use that term—is often very high, if not indeed exorbitant, because the amounts of money involved are very large.

So to recognize the disparity between government and private sector salary structures, the conference agreement adopted the Senate provision authorizing the appointment by the Commissioner of up to 40 persons to critical positions for 4-year terms with an annual compensation equivalent to the pay of the Vice President of the United States; that is to say, currently \$175,400. These will be persons chosen for their particular skills. They will be there for a 4-year period. They will be departing the private sector for an interval of public service at something approaching the salaries they normally enjoy.

Other provisions will permit the establishment of a new performance management system focused on individual accountability, and allow for the creation of an incentive award system bringing the IRS into contemporary management modes—out of the model of the civil service that was developed a century ago when we set up the Civil Service Commission, again establishing grades for employees with salaries that were low, but careers that were guaranteed for life. That effort was very controversial at that time. I can record that two Senators from New York State resigned from the Senate when the newly elected President appointed a collector of customs in the port of New York of whom they did not approve. One was Roscoe Conkling; the other, Thomas P. Platt. Mr. Conkling was no friend of civil service reform and once observed that when Dr. Johnson declared patriotism to be the last refuge of a scoundrel, he underestimated the potential of reform.

And yet reform didn't come about, a century passed, and we found that the system had not the internal energies to change itself, to adapt to new technologies and new management modes. We hope the IRS will with these new arrangements—the infusion of new people, and a clear understanding that we expect the system to be open, innovative, and “user friendly,” in the term the chairman frequently used in our hearings. And we shall see.

There are several other measures, Mr. President. I should point out that the conferees were heroic in their determination not to include all manner of extraneous or narrowly-applicable provisions, as is often the case in a tax bill but is not the case, with very few exceptions, in ours.

There are two provisions in the conference report, however, that are of special interest to the Senator from New York. The first adopts the Senate provision for a complexity analysis requirement. It requires the staff of the Joint Committee on Taxation to provide an analysis of the complexity and administrative issues associated with tax legislation reported by the Finance Committee and Ways and Means Committee. The provision is intended to provide notice, prior to floor consideration, about provisions that have widespread applicability and may be unduly burdensome for taxpayers to understand and comply with, or difficult for the IRS to interpret and administer, or both.

I might interject that when this was before us in the Finance Committee, the distinguished chief of staff of the Joint Committee on Taxation said that she looked forward to this, but that she was fearful as to whether the joint committee could begin this complicated effort so long as it was burdened with the task of determining which items in tax legislation were subject to the line-item veto, a detailed and exhaustive analysis of every tax bill, which was a new responsibility for the joint committee. I am happy to say, in the weeks since that exchange took place, the Supreme Court has dutifully and properly declared the line-item veto to be unconstitutional. So one of the unintended consequences—I cannot imagine the Court had this very much in mind—is that the joint committee is now in a position to begin a type of analysis which is new to American legislation.

We are in the practice of having an increasingly complex Tax Code. There can surely be no question that we are dealing with the problems that we found in the Internal Revenue Service because the Internal Revenue Service has to administer a Tax Code that is frequently incomprehensible. An almost priestly hierarchy understands its meanings and can work them through the tax courts and such like. But to the public and, too, the Congress, they are often simply incomprehensible.

I remember standing on this floor a year and a half ago with an 800-page tax bill, Mr. President, and that was the only copy of the tax bill on the Senate floor, which we were about to vote for 92-8. A copy provided to the distinguished chairman had been promptly appropriated by the Budget Committee to see if there were any budget points of order, and so the one copy was here on this desk, and Senators on both sides of the aisle would come up and ask whether a provision they had an interest in was in the bill, and I would say, “I hope in good spirit I can find out, but what will you pay me?” Indeed, there was no other way for the Senator to learn. And this is not an unusual event.

I am going to say this not once but twice because we have to start attend-

ing to our own behavior in these matters. I was one of the participants in the enactment of the Tax Reform Act of 1986. This was a wonderful, collegial experience led by our good friend and former colleague, Senator Packwood, along with Senator CHAFEE, Senator Danforth, a “core group,” as we called ourselves, of about six of us. We would meet for coffee at 8 o'clock every morning in Senator Packwood's office, and it would be my job, rather as the dean in a cathedral, to provide a reading for the morning. I would make sure I got the Wall Street Journal early, and without a great deal of effort I would find the advertisements where you would see a little classified ad which would say, “Rocky Mountain sheep, guaranteed losses.” And the Wall Street Journal would tell you how you would be certain to lose money in such a manner that the code would eventually reward you for your losses, which is an interesting game to play if you are interested in C notes but not a very productive form of economic activity.

Well, we cleaned up that Tax Code. We brought the rates down from, oh, half a dozen income tax rates to 28 percent and 15 percent—two rates. We did “base broadening” as the term was; more and more income became subject to taxation, so the rates of taxation could be lowered. And when it was all over, to our surprise and rather to the consternation of the tax bar, you might say, we had, indeed, produced a fairly simple and comprehensible Tax Code. That was 1986—1986, Mr. President.

What you have before you, sir, what we have in the Senate before us—and my revered chairman will know this better than anyone else present—we have the 65th public law to amend the Internal Revenue Code since the Tax Reform Act of 1986. We have passed 65 tax bills. That comes to about six a year. If you were assigned that task, you would say it would be impossible to achieve; it would be asking too much of our staffs and our Members. But we have done this heroic, if absurd, task, and it has to be said again that simplification is the essence of justice and efficiency in the code. We are a large, complex economy, an international economy. We are not going to have a simple code, but there is no reason we should have an incomprehensible one, particularly when the complexities often reflect the influence of special interest in the code.

In this regard, not many weeks ago we heard testimony from one of our Nation's most distinguished and accomplished economists, Murray Weidenbaum, who had been chairman of the Council of Economic Advisers in the administration of President Reagan. I served with him in the administration of President Nixon. At that time he took it upon himself to explain and popularize the idea of revenue sharing—get Federal revenue out to cities and States, let them decide

how to spend it, and reduce the dependency on administrative judgments, decisions, and statutes here in Washington. That was a very fine idea which we lost to the budget deficits of the 1980s.

But Murray Weidenbaum made a powerful point, coming from a powerful mind. He said, if you spend all your income, the American Tax Code is simple. You just fill out a one-page form: I made \$50,000 last year, spent \$50,000; I made \$100,000, I made \$100 million—God in heaven knows there are some who do—but I spent it all, and my taxes are as follows. It is only when you begin to save that the Tax Code gets complicated.

Of course, our largest economic question right now is the rate of savings in the American economy. The fact that we have large trade deficits basically reflects that we are importing capital. We have the lowest savings rate of any industrial country in the world—or any prime industrial country of which I am aware. It is quite striking. I would not argue this is the principal factor, but it is the fact that if you save money you can get in trouble with the Internal Revenue Code. Whatever else, that should not be the case. It is the case.

I think the complexity analysis, particularly if it is directed with this kind of issue in mind, has the potential of a very important innovation in the development of tax legislation. Don't expect it to change anything in the next 3 or 4 years, but in 20 years' time we might find that this small provision in this large legislation had large consequences.

One other item. In the interval since this legislation was agreed to, the majority and minority leaders have created a special committee on the year 2000 problem, with a hurry-up reporting date. But during the Finance Committee's consideration of the bill, Commissioner Rossotti specifically noted, in a six-page letter, that some of the changes the chairman has described in such admirable detail would overburden the IRS's ongoing efforts to upgrade its computers to allow for the century date change. In time we came to see the need for the effective-date changes he recommended—and Secretary Rubin reinforced this in a typically succinct one-page letter. We have, in the main, accommodated the Commissioner in this regard. I think this is probably the first statutory recognition of the year 2000 problem, which we are going to know a lot more about in very short order.

Now, briefly, a few matters of concern. Contrary to the unanimous opposition of the tax profession, this legislation includes a provision that shifts the burden of proof in civil cases from the taxpayer to the IRS. We all live in the real world and no one on the surface would ever think it right that the burden of proof be on a taxpayer, not the Government. But reality can be different. Four former IRS Commissioners, who appeared on a bipartisan panel before the committee, testified

that shifting the burden of proof would cause more harm than good to the taxpayer. Similar sentiment was expressed by dozens of professors of tax law. Their concern is that this provision will result in more intrusive IRS audits, create additional complexity and litigation, and create confusion for taxpayers and the IRS as to when an issue needs to be resolved in court and when the burden has shifted. I recognize the political popularity of the provision, but I fear it may actually prove to work against the taxpayer. Be warned—persons who have the best reason to be impartial in their judgment have said this is not going to help, it is going to make things yet more difficult.

Another provision certain to cause confusion and to lead to additional litigation with the IRS is the expansion of the privilege of confidentiality to tax advice furnished by accountants. This new privilege may be asserted in non-criminal tax proceedings before the IRS and in Federal courts. However, like the current attorney-client privilege, information disclosed for the purposes of preparing a new tax form is not privileged and the conference agreement precludes application of the expanded privilege to written communications to a corporation "in connection with the promotion of the direct or indirect participation of such corporations in any tax shelter." This is a right that most taxpayers will never be eligible to assert, and many will be surprised to learn about its limitations.

One provision that the bill does not include, and should, is the correction of a drafting error in the 1997 act which gives a windfall to the few estates in this country with a value of more than \$17 million. It costs nothing to fix, and the joint committee estimates that the failure to correct this error would cost taxpayers \$900 million in the next 10 years. The Senate bill fixed it. But somehow the conferees could not reach agreement.

Finally, Mr. President, and possibly most important, I direct the Senate's attention to a modest, but hugely significant, semantic triumph that has been included in this legislation.

Section 5003 of the conference agreement replaces in U.S. trade law the confusing 17th century phrase "most-favored nation," which begins with the French phrase "*la nation la plus favorisee*."

We now replace that term with the plain American term "normal trade relations." This relieves the President and the Congress of the burden of having to ask, why is this typically not-very-popular country being made a most-favored nation?

Why, for example, is there now a dispute about whether Vietnam should be given most-favored-nation status? Of course, it is not most-favored nation; it simply means you get the same treatment that the most-favored nation, some other nation most favored, gets. It is antique usage that immediately

confuses everyone involved, and now we will be able to say we propose "normal trade relations." It is plain English and avoids the needless misunderstandings that have accompanied that other term.

I do not want to overburden the Senate with detail, but the most-favored-nation concept is well over 700 years old. It has been traced by historians to a clause in the treaty of November 8, 1226, in which Frederick II, Emperor of the Holy Roman Empire, conceded to the city of Marseilles the privileges previously granted to the citizens of Pisa and Genoa. Not greater privileges, but merely the same.

The term itself is perhaps a little more recent. The first use that we can come across specifically is in the treaty of 1659 between France and Spain, which guaranteed that the subjects of each sovereign, while in the realm of the other, would be treated as the most-favored nation. Again, the phrase "*le plus favorablement*," or in modern French, "*la nation la plus favorisee*"—having the same rights as were granted the English and the Dutch.

In the main, the usage has become counterproductive. It confuses the public as to what is being proposed. I think it is fair to say sometimes it confuses the Congress as well, and we are well to be rid of it. I think it is past time and, if I may say, this is a matter that the Finance Committee has had in mind for some while. The distinguished and revered chairman and I introduced legislation last year for this purpose, and now we see it about to become law.

Mr. President, I thank you for your courtesy, and I have said my piece on the matter. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Does the Senator from Nebraska wish to speak?

Mr. KERREY. I am prepared to proceed.

Mr. GREGG. I am going to speak about 10 minutes. Will that be an inconvenience to the Senator, or does he have to get somewhere?

Mr. KERREY. One of the things I want to do, and I will be pleased to step aside for 10 minutes, I want to engage in a short colloquy with the distinguished Senator from New York on this bill. I will try to be as brief as possible and then yield back to the Senator. I have a longer statement I will make on this legislation.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank the Chair, and I thank the distinguished Senator from New Hampshire. One of the things the Senator from New York has referenced—and I will later in my remarks praise both he and the chairman of this committee for what they have done in bringing this legislation to the floor—one of the things the Senator referenced in his comments was the 1986 Tax Reform Act. Indeed, this bill, it should be noted by colleagues,

amends that act. So this would be the, I guess, the 65th tax bill we have passed since 1986.

I wonder if the Senator from New York can engage briefly in a discussion for the benefit of the Senator from New Hampshire and for those who happen to be watching this debate. One of the things that we struggle to do as citizens is to understand what it is that the government is doing and why.

Under our constitutional authorities as a Congress we have a whole range of things we are charged with doing. One of the most difficult things we are charged with doing, once we have decided we are going to have a government of any kind at all, is we have to collect taxes and what to use those taxes for and we then have to decide who is going to pay the taxes, and we write the law accordingly. We then distribute the money to the various agencies of government that we previously created.

I wonder if the Senator from New York, with his understanding of the rest of the world, can talk a little bit about how much we take for granted our capacity to voluntarily collect. We have a voluntary system of tax collection, unlike many other nations on Earth.

I know right now one of the most difficult problems, for example, that the newly democratic Russia is facing is their capacity to collect tax revenues in sometimes a not-so-voluntary fashion.

I wonder if the Senator can talk a little bit about the constitutional issues of us raising the taxes to pay for the government and the importance of our being able to maintain a voluntary system of tax collection.

Mr. MOYNIHAN. I certainly will. I will be succinct, because nothing could be more clear.

The United States is blessed with a citizenry that pays its taxes on time and in full. There are exceptions, but we do it voluntarily. Technically, we self-assess; we decide ourselves what we owe the government. The rate of compliance is very high.

Up until just recently, and it is just beginning to change, for example, in the United Kingdom, which we associate with and we think of as a free society, and it certainly is, the subjects of the queen did not decide how much taxes he or she owed; the queen decided. They were sent a bill. You are free to contest it in court, and you can contest it in court the rest of your life, but you still have to pay the bill.

So the idea of complexity in this system, making it so difficult to know what it is you owe jeopardizes a precious institution, which is the faith of the public in the good intentions and performance of the government itself. That, I think, was one of the reasons the Kerrey Commission called for the reforms that are in this legislation of the IRS. You can have an openness and a sense that things are on the level here and government is doing the right thing.

Mr. KERREY. I thank the Senator for delaying his exit from the floor. I appreciate very much that reference.

Mr. President, I believe this piece of legislation goes to the heart of our capacity to maintain government of, by and for the people. Our republican form of government is at risk if people feel they are not getting a fair shake with this voluntary system of collection.

Congressman PORTMAN and I co-chaired this restructuring commission. We noted U.S. tax collection is the most efficient in the world. Less than half of a percent of the total revenues collected is in cost. In the face of mounting criticism, problems, it seems to me it is very important to make certain that as we write the laws that will determine how this money is collected, that we not throw the proverbial baby out with the bathwater. We have problems, and this legislation attempts to correct the problems. But underneath these problems is a relatively efficient system of collecting taxes that enables the citizens to fund their Government, and in a relatively efficient fashion.

Mr. MOYNIHAN. Indeed.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to join with what I am sure will be numerous Senators in congratulating the Senator from Delaware and the Senator from New York and the Committee on Finance for bringing forward this exceptionally good bill which is truly timely.

Many of us, as we have tried to help folks out in our States, have run into situations where people have been treated in ways which can only be described as abusive by the Internal Revenue Service, where the Internal Revenue Service has gone way beyond the appropriate action for the purposes of collecting the revenues of the country and has treated American citizens in a way that you might expect were they to be living in a police state instead of in a democracy.

In my experience, probably one of the worst cases I have ever seen of Government excesses involves a family known as Barron in New Hampshire. That family, unfortunately, got into some tax trouble, failed to pay its taxes, and the IRS, in an appropriate way, attempted to collect those taxes—at least appropriately at the beginning. But then it got carried away. And as a result of getting carried away, it put that family through an extraordinary trauma, to a point where Mr. Barron ended up committing suicide. And his wife, Shirley Barron, who is now responsible for the family, found herself in a situation which was beyond all reason, which was untenable and which was horrible.

A lien had been put on her house. Her children's bank accounts had been taken. Her bank accounts had been taken. The IRS was even making it impossible for her to pay her electric fee, her utility fees. This all occurred after

a time period when they thought they had reached an agreement with the Internal Revenue Service. They thought an understanding had been reached, and, in fact, an understanding had been reached. Then the IRS, in a manner which can only be called bait and switch, backed out of that agreement and assessed them with even more penalties and interest. And on an original tax bill which was, I believe, somewhere in the vicinity of \$20,000 or \$40,000, they ended up with an obligation, according to the Internal Revenue Service, of multiple hundreds of thousands of dollars.

It was a situation which was so horrendously handled that it literally drove Mr. Barron to commit suicide, destroyed the lives of this family. And it has become a cause celebre in New Hampshire, and to some degree nationally. It would be terrible in and of itself, because there is really nothing we can do as a Government to correct what happened to Mrs. Barron and the treatment she received. Her life has been irreparably harmed, and her family will always suffer as a result of this.

It would be terrible enough if it were the only instance of this type of situation occurring, but as we saw from the hearings which the Senate Finance Committee held under Chairman ROTH, it was not the only instance. Regrettably, on too many occasions the Internal Revenue Service has acted in this almost malicious but certainly abusive way.

This does not mean that the Internal Revenue Service is populated with people who wish to treat American citizens, taxpayers, in a manner that is totally inappropriate. No. In fact, just the opposite. The Internal Revenue Service is filled with good and conscientious people, in my opinion; but there are bad apples.

More importantly than that, the Service has created an atmosphere, a way of management, a culture, which has allowed the excesses to proceed in the actions against taxpayers which are beyond the pale of reasonableness to become commonplace, through the lack of management and, in my opinion, due to lack of structure, both legal and managerial. So this bill attempts to correct that.

The most important thing it does, or one of the most important things it does, is it shifts the burden of proof, gets us back to where we should have been to begin with, which is to presume that the taxpayer is innocent rather than presuming that the taxpayer is guilty until the taxpayer has proven himself or herself innocent. That is very important, so that the taxpayer goes in at least on some level of a playing field which has some levelness to it versus a playing field which was radically tilted against the taxpayer under the present structure.

In addition, the bill protects the innocent spouse. In so many instances, the spouse is a part of the familial activity as being part of a family; signs

the return without a great deal of knowledge of what is in that return, sometimes without any great knowledge of what is in that return, but signs it and then finds out later on, as was the case in Mrs. Barron's situation, that action has been taken that was inappropriate and liability exists. And when the spouse who is responsible disappears, as a result of divorce, or in this case as a result of death, the innocent spouse ends up with an obligation which is totally inappropriate. So the protection of the innocent spouse is absolutely critical and a very, very good part of this bill.

In addition, the bill takes what I think is a critical step in the area of managing the Internal Revenue Service's procedures because it limits the ability of the Internal Revenue Service to assess interest and penalties in a manner which uses the interest and penalties to basically force settlements on the taxpayer, even when the taxpayer feels they did not owe the obligation.

There is no question but that the basic collection process at the Internal Revenue Service proceeds with, in many instances, running up the interest and penalty obligations so when they get into negotiations with the taxpayer, even if the taxpayer knows they do not owe the taxes, the utility of proceeding becomes so expensive, it becomes so impossible to ever want to proceed in a manner which would put you at risk for the interest and penalties which have been run up that you end up paying the underlying tax and negotiating out the interest and penalties. That is a collection process which, regrettably, has become the *modus operandi* of the Internal Revenue Service.

This bill puts some limitation on that by limiting the ability of the Internal Revenue Service to run those interest and penalties up if they have not notified the taxpayer within a timely manner—18 months initially, 12 months as time goes out—that an obligation is due or they perceive that an obligation is due. This is an extremely important change in the collection process. In addition, the bill provides much better services to the taxpayer, which is critical.

Thus, I am extremely supportive of this effort. I say this. It does not resolve the problem. The problem goes to the basic law. The fact is that we have created a tax law which is so complex, so convoluted, such a mishmash of regulations and cross-purpose legislation, that it becomes basically unenforceable because it is not comprehensible.

After finishing law school, I went back to school for 3 years and got a graduate degree in tax policy with an LL.M. I have to say, I do not fill out my own tax return because it is simply too complex. Now, if I cannot do it, how can somebody who is just working every day and trying to make ends meet be able to do it? Obviously, they cannot.

And what we see in the collection atmosphere is that the Internal Revenue agents, regrettably, because of the complexity in many instances, do not understand it because it is not understandable.

So the law itself is a basic problem here, and we simply have to reform the law if we really want to correct this problem. We have to go to a much simpler law, a fairer law, something that can be managed in a way that is comprehensible to people who are working every day and trying to fill out their return, who don't happen to be specialists.

As an interim step, as an effort to try to correct what is basically a law that is not enforceable effectively but is being enforced in a manner which in many cases is abusive—as an interim step, this bill makes great progress. Thus, I congratulate the committee for their efforts. I hope it will not be looked at as the end of the process but will be looked at as a step in the process to reforming our tax laws so that they can be administered in a way which will regain the confidence of the American people that they are fair and that they are reasonable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I come to the floor, as many other Members have, to speak in favor of the IRS reform bill that is before the Senate. As the Senator from New Hampshire indicated, I want to take just a little bit of a different approach. We talk about this as one of the steps in the changes that do need to be made.

I do come to the floor to express my support for the package. The agency, of course, has basically run roughshod over American taxpayers for too long. This is the first significant reform in this agency in over four decades.

Congress should do more of this kind of oversight. It seems to me in this whole business of funding the Government, this whole business of appropriations, that we need to find a way to have more time for oversight. That is why I am supporting and continue to support a biennial budget in the appropriations process, so we would have off years to do this kind of thing for many other agencies.

Basically, I guess my point is that this is an important part of the Republican agenda, of our agenda, to do things about taxes. No. 1, of course, is to have tax reduction. I think American families deserve that. I think it is good for the economy. It has to do with having less Government and a smaller Government. IRS reform is part of it, and this is a great step in that direction.

Certainly, the third point is simplification of the Tax Code. I think, also, that is a necessary element before we find satisfaction with our Tax Code.

So, reducing taxes, IRS reform, and simplification comprise a three-pronged agenda, one which I support.

Last year we made some progress in terms of reducing taxes, reduced them in capital gains, reduced estate taxes, installed a \$500-per-child tax credit, expanded IRAs, and passed other important small business tax reductions.

I would like to go forward in that area, and I hope we shall. Further reducing capital gains, eliminating estate taxes, reducing and eliminating the marriage tax penalty are areas in which we can make progress.

This year we will reform IRS, the Federal agency that has interaction with more Americans than any other agency. I salute Senator ROTH and the Senator from New York and members of the Finance Committee for holding fast against the initial White House reluctance and opposition to reforms in this agency. His hearings, the committee's hearings, brought to light many unbelievable abuses of taxpayers by this agency.

This reform package, then, increases the oversight on IRS, holds IRS employees more accountable, makes IRS a more service-friendly agency, puts the law on the side of the taxpayer, has some very key provisions: Taxpayer confidentiality, extends the attorney-client privilege to accountants, reverses the burden of proof from the taxpayer to the IRS, guarantees 30 days to request a hearing of disputes, gives new powers to the taxpayers who petition the courts to contest decisions, and reforms the management of the IRS.

These are all good things.

The third part of our agenda, which is still there and I believe is of paramount importance if we are to really change the tax atmosphere: I think we have to address the basic underlying Tax Code. Hopefully, that will take place in the next year or two. We plan to significantly reform the Tax Code and to eliminate the complexity that is now there. There seems to be some misunderstanding about one of the proposals now which would terminate the current Tax Code in the year 2001. It does not eliminate the Tax Code, it simply gives a time certain in which a new Tax Code needs to be devised.

The IRS is responsible for creating many of the problems the taxpayers have, but Congress needs to bear the burden of fixing the current Tax Code. There are 17,000 pages of inherently confusing data that need to be changed. Taxpayers spend \$200 billion and 5.4 billion hours to comply with the tax law. The IRS employs over 100,000 people, more than five times the number of the FBI. After 80 years of abuses by lawmakers, lobbyists, and special interests, the tax system is unfair, complex, it is costly and punishes work, savings, and investment.

Certainly there is a great opportunity for basic recodification of the Tax Code. I support plans, of course, that have the basic elements of fairness, of simplicity, reducing the overall tax burden.

It is interesting, as you go about in your State, my State of Wyoming, and

ask how many people like the Tax Code the way it is now, nobody responds, of course. Then you say: What do you want to do about it? Do you like sales tax? Do you like flat tax? Do you like consumption tax? But we haven't come, yet, to a consensus on what the replacement ought to be. That is the challenge before us.

I am pleased we are about to pass this historic bill, complete the second part of a three-pronged tax agenda. I hope soon we will move to finish the job and fundamentally reform the Tax Code.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in support of the conference report on IRS reform.

What I would like to do is very briefly give a summary of the two philosophical approaches that were initially embodied in the debate, why I believe we chose the better of the two, and then I will outline the few issues in the bill that I feel very strongly about.

First of all, when we started learning of IRS abuses—something that most of our offices heard about from constituents from the very beginning of our congressional service—and then when we saw it in its rawest form in testimony before the Finance Committee, I think there were two basic approaches or responses people had. I think one view was that people at the IRS had become insensitive, that there was something wrong with them, and that what we needed was a massive effort to try to sensitize people in the IRS. I have to say, that is the administration's initial viewpoint. It was as if they thought we could solve the problem simply by hiring every sociologist in the country and have them sit down individually with IRS employees and encourage them to be good people.

My own view, and the view that I believe dominates this bill, was a view that by and large, with a few notable exceptions, there was nothing wrong with people who work with the IRS. They are ordinary people. They have families. They own dogs. They are pretty much like us. The problem is, as the ancient Greeks observed, power corrupts. In the Internal Revenue Service, you have an agency of government that has tremendous power. As compared to the criminal justice system, for example, the IRS in its dealings with us on tax matters is literally the police, the investigator, the prosecutor, the judge, and the jury. And as a result of the fact that the IRS has so much unchecked power, that created an environment in which abuse occurred.

What bothered me most in listening to the testimony was not that you had people do bad things. We know that even good people sometimes do bad things. We know smart people sometimes do dumb things. But what alarmed me about the testimony over and over was the fact that nothing bad

happened to bad people, that when people did bad things in the IRS, they were seldom, if ever, punished. And when people did good things like trying to raise the level of awareness in the IRS that abuses were occurring, often bad things happened to them.

That convinced me and, I believe, convinced the majority of the members of the Finance Committee, and ultimately the majority of Members of both Houses of Congress, that the system needed changing, that we had a system that reinforced bad behavior, and what we, of course, want is a system that reinforces good behavior.

I don't know what we are going to get from the oversight board we have established. I hope it will be productive. I certainly am supportive of it. I am not sure how well that approach will work, but there is a secondary approach in the bill that I am convinced will work, and that is an approach that really aims to curb this unbridled power.

The first change we made in the bill, which I think is vitally important, is we shift the burden of proof from the individual taxpayer to the Internal Revenue Service. We do that not only on income taxes, but we do it on estate taxes. I believe this is a very important change. Now, critics of this change said that only the taxpayer knows the facts, only the taxpayer has real access to the records, and so if you shift the burden of proof, the taxpayer will have an incentive to destroy records.

I think we came up with an excellent compromise in this area, and that compromise is that if taxpayers keep records that a prudent person could be expected to keep, if they turn those records over to the Internal Revenue Service on a timely basis, at that point the burden of proof shifts. I believe that this is a vitally important provision. It is a provision of the bill that basically guarantees honest taxpayers the same rights that criminals have in the criminal justice system. I think this is a major step in the right direction.

The next change that I believe will change the relationship between the tax collector and the taxpayer is a provision that is basically a version of loser-pay. This is an important principle, it seems to me. I would personally like to see it throughout our legal system. I have always been amazed that the British had the best legal system in the world and one of the poorest health care systems in the world, but we are interested in adopting their health care system and not their legal system. But the brilliance of their system, which actually dates back to ancient Greece, is that if you bring a lawsuit and lose, you have to pay the costs—costs incurred by the court, costs incurred by the defendant in defending their rights.

Now, we have a variant of that in this bill, and I think it is a very important provision. What this bill says is, if you are audited by the Internal Revenue

Service, and you end up in a running dispute with them, and in the process you are forced to hire attorneys and to hire accountants to defend yourself, at the end of the process, if it is found that you did not violate the law, then the Internal Revenue Service is liable for the costs you incurred in hiring lawyers and accountants and defending yourself. I believe that by shifting the burden of proof and expanding the loser pays concept, that the rights of the taxpayer—the honest taxpayer—will be strengthened because it will change the behavior of the Internal Revenue Service.

In a related provision, we have language in the bill where, if you offer to settle with the Internal Revenue Service and offer to make a payment to them and they refuse to accept that payment, and instead they take the taxpayer to court, if at the end of the day the court rules that you owe the amount you offered, or less—not counting interest and penalties that might have been imposed by the Internal Revenue Service in the interim—then the IRS again becomes liable for payment of the cost of legal and accounting expenses incurred from the point that you made the offer to settle until the final judgment was reached in the court of law. It seems to me that is another vitally important change.

The third and, I believe, final major section of the bill has to do with the flexibility of the Internal Revenue Service hiring people. Under our current system, basically, you have to be in the Internal Revenue Service for 25 years to have a major supervisory, decision-making post. One of the things we have done in this bill is waive a number of the general procedures under civil service. We are allowing the Internal Revenue Service to go outside the system and bring in private expertise—some on a permanent basis, some on a temporary basis—and in the process, we are bringing in new people with private experience, many of whom will go back into the private sector. The net result, I believe, will be a more efficient and basically a more balanced Internal Revenue Service.

Finally, related to this third issue is the whole issue of people who violate the law and people who behave in ways that you can, under no circumstance, justify, nor should you ever tolerate in a government agency—or any other entity, for that matter. What we have done in this bill is not only given the new IRS chief flexibility in hiring new people from the outside, including very highly skilled and highly compensated individuals, but we have also given the Internal Revenue Service Director the ability to fire people—to fire people for a list of violations, and in the process strengthen his power to hold the agency accountable to the taxpayer.

So I want to congratulate Senator ROTH for his leadership on this bill. The major provisions of the bill relating to the burden of proof and to the loser-pay provision were provisions

that the chairman insisted on and made part of this bill. They are dramatic changes. I want to congratulate Senator MOYNIHAN as well as Senator KERREY and Senator GRASSLEY who served on the commission whose recommendations we built on in developing this legislation and did adopt many of its proposals. I think we have put together a good bill that will shift the burden of proof, that will force the IRS to pay when it is wrong, that enhances the ability to hire and fire—hire on the basis of competence, fire on the basis of incompetence, and on the basis of illegal or reprehensible behavior. I think it is a good bill.

I simply want to say this: Anybody who sat through all those hearings that we had in Finance—and I did—had to be convinced that the time had come for a fundamental change in the relationship between the taxpayer in this country and the agency that is charged with collecting taxes. We needed substantial changes that enhanced the power and standing of the taxpayer and that diminished the unbridled power of the Internal Revenue Service. I believe this bill achieves those goals. Nobody claims this solves every problem in the country. Nobody claims this makes our Tax Code any more decipherable. Nobody would claim that every problem is solved. But this is a major step forward.

I am strongly in favor of this bill, and I hope we can follow this bill next year with an effort to reform the Tax Code, to make it simpler and fairer. I think everyone believes that would be an improvement. The trick, obviously, is to make it happen. But I congratulate those that have been involved in the bill. I am proud to support it. I think it is certainly one of the highlights of this Congress and recent years, and I am glad to have been a small part of it.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Nebraska.

Mr. KERREY. Mr. President, I also rise in support of the conference report, the Internal Revenue Service Restructuring and Reform Act of 1998. I would like to begin my comments with high praise for the Chairman of the Finance Committee, both for calling the hearings last fall and again this year, and for his efforts every step of the way to make certain that this was a responsible bill, a balanced bill, and a bill that reflected the high values of the American people. I appreciate very much his leadership, as well as the ranking member of the Finance Committee, Senator MOYNIHAN. The chairman, I think conducted the hearings in a very responsible way and in a way that enabled the American people to see that the laws governing the IRS were in urgent need of changing. It simply would not have happened without Senator ROTH's diligence and willingness to bring to the American peo-

ple's attention many of the problems that they saw last fall and again this year.

Mr. President, representative democracy is a very difficult system. We all know it. We all view it to be the best. With all of its faults, it still is the best system around. But it is a difficult system, because the people themselves have to decide what they want their laws to be. We, as their representatives, have to reflect their wishes and desires. But at the end of the day, you have to write a law and decide which words they ought to be. What goes into those laws very often is an attempt to resolve conflicts.

This piece of legislation I believe is in an area of government that in many ways is the most difficult of all. I would put law enforcement closely behind it as being both the most important and the most difficult. You always have conflicts between law enforcement and the desire for public safety, which is an overriding concern in the desire to protect individual rights. It is always there. It will never end. It is a never-ending battle. It is a never-ending argument. It is a never-ending struggle to try to resolve those conflicts.

Likewise, when it comes to paying for government—and all of us, I presume, are careful in how we spend the taxpayers' money—many of us are of the view that government itself needs to be watched very carefully, in an attempt, especially at the Federal level, to reduce it as much as possible so that taxpayers get to keep as much of their money as possible. The bottom line is, we are going to have some government.

I was very struck watching President Jiang Zemin in China. I didn't see any demonstrators over in China. And the reason is, they don't have a law protecting them. They don't have government of, by, and for the people. That is a law that protects, but it also costs us money.

We have to decide how we are going to organize our police force, fire department, and all the rest of it. When, at the Federal level we decide we want an Army, a Navy, an Air Force, and a Marine Corps, which we authorized not too long ago for the defense of this Nation, we have to decide how we are going to collect the money. So we write a law that not only decides how that money is going to be collected but we write a law that authorizes the collection agency—in this case, the IRS.

I begin with those basics because sometimes I hear people describe the IRS as if it is a Sears & Roebuck or a private-sector operation. It is not. It is a creation of law. If you wanted to get rid of the IRS completely—I have heard some people argue that—you could come down here and offer an amendment to abolish the IRS. The IRS needs a law. The IRS—and in its current form, for those who are in the private sector and used to working with private-sector organizations—the IRS has a board of directors composed of 535

Members of Congress, 100 in the Senate and 435 in the House. Again, it is important to understand that.

We come—all of us—with different views, different ideas. The distinguished occupant of the Chair represents the good people of Arkansas. I represent the good people of Nebraska. The chairman of the committee so responsible for this legislation represents the good people of Delaware. We come with a variety of ideas in the way that we want the IRS to be governed. We bring those ideas typically forcefully to the floor, or to our respective committees, to try to get things done.

I say that because sometimes those ideas are in conflict. Sometimes at the very moment we are calling for tax simplification, we are voting "aye" on something that makes the code more complicated. As the distinguished Senator from New York said, this piece of legislation amends the 1986 act, which itself was called, I think, the Tax Simplification Act of 1986. It was enacted before I arrived in the Senate. Fortunately, I could blame all of the problems that thing created on those who voted for it. But that legislation has been amended 64 times, and each time, typically, it makes the code a bit more complicated.

We talk about wanting the IRS to do a better job of collecting revenue. It doesn't take long, after they have been trained and get up to speed, before the private sector puts an offer on the table to try to pull the good people away, hire them away. Sometimes the IRS says, "We want to modernize so as to have good computer operating systems." Sometimes we fail to appropriate the money that they need to get the job done.

All of this, and more besides, describes the difficulty of writing a law that enables the IRS to do the things that the American people want, which is to collect the amount of money that is owed in a voluntary fashion and to create an environment so that those who are willing to pay in a voluntary fashion—those who are volunteering to pay their fair share—get the answer to the question, "How much do I owe?" in as efficient a way as possible and get their taxes paid in as efficient a way as possible with the least amount of cost and harassment on their side, while still preserving the power of the IRS to go after individuals who are not willing to voluntarily comply, don't want to pay their fair share, and who, I think it is fair to say, burden those who are voluntarily complying by withholding their fair share.

So the IRS restructuring legislation is an attempt to improve the law. I believe it does that in a number of very, very significant ways. I would like to describe a few of those for my colleagues. Indeed, at the press conference, after the conference work was done, I heard a number of people in the press ask—and I have been asked as well in Nebraska—"How will we notice the changes in this law? How will the

changes be noticed by me, a taxpayer who has a relationship with the IRS?" I would like to identify a few of those.

First, the law that creates governance for the IRS has been dramatically changed. It has been changed in the executive branch side. But it also has been changed in the legislative branch side.

It must be noted, I think, in fairness, that we first started noticing problems with the IRS a half-dozen years ago when the tax system modernization program that we had appropriated money for wasn't functioning very well. The GAO was requested to do an examination. The GAO came back and said that as much as \$3 billion had been wasted. At the time, I had the high honor of serving on the Appropriations Committee under Chairman BYRD and the ranking Republican, Senator Hatfield. Our Subcommittee on Treasury-Postal Appropriations tried to fence the money for a couple of years. We tried to work with the IRS to figure out some way to make this work better.

In 1995, what Senator SHELBY and I were going to do was withhold the money entirely. We took an alternative course to create in 1995 this restructuring commission that Congressman PORTMAN and I had the high honor to be cochair of in 1996 and 1997. We were just one of six committees, and still are, that the IRS had to report to. They had to come to the Appropriations Committee, the Finance Committee, and they go to the Governmental Affairs Committee. And they had to go to all three of their counterparts on the House side. They are required under law to go to each one of those.

What the GAO reported—both at that time and later to the restructuring commission—was that you need to reorganize that, that you are not going to be able to make good investments in computers and operating systems and the software for those computers. You will make a mistake when you spend the taxpayers' money unless you get to a point in some environment where there is a shared agreement on how that money is to be spent: What is the purpose? What is the goal? Where is it that you are trying to go?

This legislation creates on the executive branch side a new board of governance which the President appoints. They have a considerable amount of power and independence. These individuals will come from the private sector with a variety of different experiences to be able to assist the Commissioner in making a decision about what kinds of management objectives and what kinds of computer systems and software systems are going to be in place. But that board will have the opportunity as well under this legislation to meet with a single committee on an annual basis to review IRS operations and management.

So the appropriators, the Finance Committee, and the Governmental Affairs people, in both the House and the

Senate, will be meeting with this board of directors in reaching agreement. It is much more likely in this kind of environment—whatever plan the IRS comes up with and the Commissioner comes up with—that the Congress will support that plan, and support that plan on a consistent basis.

This governing board is also much more likely to provide taxpayers with a sense that the IRS is more directly accountable to them. There will be an opportunity for citizens to go to that board, and it is much more likely that we in our offices will be able to follow up on cases that are brought to our attention.

So the governance board on the executive branch under this law and the change in governance on the legislative branch are the first things that I believe taxpayers are going to see. They are going to see better decisions and more consistent support being provided for those decisions as a consequence of the changes in this law. They were very controversial for a long period of time. The administration reached agreement with the Congress on what those provisions were going to be. But I believe every single taxpayer is going to see a benefit as a consequence of improved governance and improved decisionmaking being made by the Commissioner of the IRS.

The second big area where people are going to notice a change is the new management powers and authorities that are granted to the Commissioner.

First of all, under law, the Commissioner will be able to serve a full 5-year term. Over the past, I think, 5 years now, we have had three different Commissioners. There has been substantial turnover and difficulty as a consequence of maintaining continuity. And the maintenance of continuity is a very important objective of this legislation. The IRS Commissioner not only will have the power to make management decisions in an affirmative way by providing incentives for people to perform and rewarding them when they do perform but new authorities to terminate employees who are not performing up to the highest standards of the American people and the American taxpayer.

In addition, the Commissioner is not only given authority but directed to change the way we manage the IRS from the current system, which is a district and regional geographical organization, to functional lines of governance. Every single taxpayer is going to notice that change, Mr. President, not this year but certainly over the next 2 or 3 years. Our taxpayers are going to say it is an awful lot easier now that the Commissioner has organized the IRS by individual taxpayers, by corporate taxpayers small, by corporate taxpayers big, and by nonprofits. It is going to be a lot more likely that the Commissioner is going to be able to give each one of those entities the continuity of service they are asking for.

As individuals move from one part of the country to another, they find themselves in a different region, in a different district. It is much more likely that the Commissioner is going to be coming to the Congress saying: Here are some changes we could make to decrease the cost of compliance and make it easier for larger taxpayers, for smaller taxpayers, for individual taxpayers—much more likely when we organize around functional lines.

And with the increased authority under the law the Commissioner will have, it is much more likely that every single taxpayer will say: It has gotten much easier for me to pay my taxes. They may still think they are too high. They may still say: It should be a consumption tax or some other way of paying my taxes, but it has gotten easier; I have gotten the information more quickly; there is an operating system here, a computer system here, an information system here, that has made it easier for me to acquire the information if I have a complaint or discrepancy.

And you hear it all the time. Somebody calls up and says: I am making \$10,000 a year; I got a bill for \$140,000; it's ridiculous; something is wrong. I call up my IRS office. They don't have the ability to reassure me that a mistake has been made. It takes months and months and months.

With this new governance structure, with this new authority, we are providing the Commissioner what I think every single Senator and every single Representative is going to hear citizens saying: I am able to call up and get an immediate change. If I have a change of address and my refund check hasn't arrived, it is going to be much more likely I am going to get immediate attention, same-day attention, to that and shorten the amount of time that is required to get the problem resolved.

Mr. President, not only do taxpayers save money because the IRS will spend less money, but the taxpayers themselves downstream will save a lot more money, not having to chase around and solve the problem.

The third big area is in taxpayer rights, and there are a lot of changes. I am just going to list a few of them. The chairman talked extensively about the burden of proof shift. I think it is a reasonable compromise, although there is still some cause for concern. If we find ourselves with some problems as a consequence of this provision, which I don't think we will, Congress can always make some modifications. It shifts the burden of proof in all forms of income at the Tax Court. There are changes in the way taxpayers' proceedings are handled at the IRS, including such issues as to how costs are awarded and apportioned, civil damages if the IRS is negligent.

One of the things we are trying to do all the way through the rights provision is make certain that when the IRS sends out a collection notice, they are going after a taxpayer for doing something, that they have relatively high

certainly the taxpayer has done something wrong. The burden is on them to make a judgment with this new law, because if we find that the IRS has been negligent, the IRS has done something wrong, under these new provisions the IRS can be held not only responsible but liable for payment to the taxpayer—much more likely, as a consequence, taxpayers are going to see fewer collection notices that are sent out when no collection is warranted.

There is relief for innocent spouses, changes in interest and penalty, new protections under audit, new disclosure requirements to taxpayers—extremely important provisions, Mr. President. The taxpayer very often just doesn't get the information, doesn't know what is going on. As a consequence, they are not able to make a judgment about how much they owe.

There are provisions in the bill to create low-income clinics, a very important provision as well. We all know that the higher your income, the more likely it is you are going to have somebody do your taxes for you. With all the tax simplification and complexity issues that we hear, as income gets more complicated, it is more and more likely as a result that your income is going to be higher and more likely that somebody else is going to do your tax return for you. But for that lower-income American, these low-income clinics are going to be, I think, an extremely important part of our overall effort to make certain that all Americans say, whether it is the IRS or the FBI or the USDA or whatever it is, it is still Government of, by, and for the people. And the law has to be on the side of all Americans, not just those of higher incomes but on the side of middle-income Americans and lower-income Americans. And I think this low-income clinic provision is a very important part of it.

In addition, under the rights provision, the IRS will be required to catalog complaints it can bring to Congress, and we can sort out and see if there are any repetitive problems here and make judgments about whether or not, as a result of those repetitive problems, we need to make further changes in the law.

The fourth big area is the area of simplicity. The distinguished Senator from New York commented on that at length. I would only point out that I think, again, Members are going to hear taxpayers saying: Well, finally we have some things in there that help us deal with this problem, estimated to be \$100- to \$200-billion a year, of costs to the taxpayer to comply with the current code.

Now, it has to be said, as long as you tax income, it is going to be invasive. That is my own belief. If you tax income, it is almost going to be true that it is going to feel invasive if you are in an audit situation. This law will give taxpayers, I think, some new evidence that we are getting the word out on simplification.

First of all, for the first time under law, the Commissioner is empowered to make comments and to be there when laws are being written. Right now, you will have to search your memory bank, and I think in vain, to find a time when you have ever heard an IRS Commissioner say: Great idea, Mr. President; great idea, Senator Blowhard—for some new tax break—but here is what it is going to cost the taxpayer to comply.

We heard in the restructuring commission examples, and we filed them as a part of our index, of situations where provisions in the code cost far more to enforce than they generate in revenue. The cost to the taxpayer and the cost to the IRS to collect the money is greater than the benefit measured in the amount of money that is collected.

So in addition to putting the Tax Commissioner at the table and giving him authority to comment, as the distinguished Senator from New York mentioned earlier, there is a new simplicity analysis that will be done and prepared so we can judge whether or not an idea that we have is going to either increase or decrease the cost to the American people to comply.

There are new provisions, next, Mr. President, in the area of the Taxpayer Advocate, making the advocate more independent, making the Advocate more likely to help in the resolution of problems—a very important section. And I think every single taxpayer who has a problem with the IRS is going to see that this new Taxpayer Advocate is more likely under this new law to be able to help resolve in an expeditious fashion any complaint or problem they have.

Last, Mr. President, in the section dealing with electronic filing, those of us who have spent some time on this believe, No. 1, that if you are trying to reduce the cost, the most important thing is to reduce the number of errors. In the electronic world, there is less than half of 1 percent errors. In the paper world, it is 20 to 25 percent errors being made both by the IRS and the individuals who are filling out the forms. The electronic world offers us a tremendous opportunity to decrease the cost to comply for both the taxpayer and the IRS.

The language of this bill says that the IRS would encourage private sector competition. Again, I must say I think it is very important that Congress pay attention to this. Though I want the IRS to be able to offer services to the American taxpayer, I want to make certain that there is vigorous competition out in the private sector for the delivery of these services.

All in all, I believe this piece of legislation represents a good-faith effort on the part of Members of this body and the House to do something that is extremely difficult, and that is to write the laws governing the collection of our taxes in a way that resolves all the various conflicts that you have when you are trying to write any piece of

legislation dealing with something where you are simultaneously trying to make it easy for taxpayers to comply and make it difficult for people who are not willing to comply to live outside the letter, the spirit, and the intent of the law.

I close with what I said at the beginning. I have high praise for Chairman ROTH for his good work, his balance, and his determination to finally get this done. I have high praise as well for Senator GRASSLEY, who served on the restructuring commission, for Congressman PORTMAN, who was my chairman, as well as Congressman CARDIN and the senior Senator from New York, Senator MOYNIHAN, the ranking Democrat on the committee.

I look forward to final passage, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, America is a great country. It is not perfect, but it is a great country. It is a country where the voice of the people is usually heard. That is what this is all about today. The American public, for some time, has been upset about the way their tax collector has been handling a very important aspect of the business of this country. Today we are dealing with something that is very important to the American people.

I also must say that this IRS restructuring and reform bill would not have been possible but for the senior Senator from Nebraska. The senior Senator from Nebraska has worked long and hard on this issue. Even before this legislation was introduced, as he has just briefly outlined, when he was a member of the Appropriations Committee and a member of the subcommittee that had jurisdiction over the IRS, he started this legislation. It seems it was only yesterday, even though it was much longer. It was last year that Senators GRASSLEY, KERREY, and I stood to introduce this legislation.

When we introduced this legislation, we didn't have a lot of people who wanted to help us. There was a sparse group of people from the Senate supporting us—Senator KERREY, from Nebraska, Senator Pryor, from Arkansas, and Senator GRASSLEY, from Iowa. But I commend and applaud the Senator from Nebraska for his vision and, most of all, for his tenacity on this legislation. I am glad we are finally at a point now where we can pass this because this IRS restructuring and reform bill is important.

Mr. President, when I first came to the Congress, I came with the feeling that something had to be done about the IRS. I was elected in 1982. During that period of time, the State of Nevada was going through some very difficult times with the Internal Revenue Service. The reason for that is that the resort industry had been in a battle that had gone on for several decades as to whether people in the gambling business, when they received a gratuity from somebody who was playing cards

or dice, could treat that gratuity as a gift, or whether it was taxable by the Internal Revenue Service.

This battle was taken to the court structure and the courts determined that this was taxable income. It took several decades to do this. After the decision was made by the courts, many of the people in the resort field owed money to the IRS. They acknowledged their debt, and made arrangements with the Internal Revenue Service, saying I owe \$20,000 or I owe \$4,000, whatever the amount might be, and they would repay it at whatever rate they could work out with the IRS agent, for example, \$200 a month or \$600 a month. The problem was, the IRS would keep renegeing on their deals. A new IRS agent would come along and say, "You are not going to pay \$200 a month, you have to pay \$400 a month." They would say, "We already made an arrangement with you to pay at \$200 a month." The IRS agent would say, "I'm a new agent; I will make the deal with you that I think is appropriate."

This went on and on. The people in the resort business had their property seized and their bank accounts levied. It was a very chaotic situation. As a result of this experience, when I came to the Congress, I introduced a bill in the House called the Taxpayer Bill of Rights.

On the day I introduced that legislation, I appeared on the "Charlie Rose" show. At that time, Charlie Rose came on at 2 o'clock in the morning. I thought the legislation I introduced had impact only on the people of the State of Nevada. I was surprised, amazed, and impressed to learn that it was not only a Nevada problem. After I appeared on this TV program that aired at 2 a.m., I came to the office the next day and to find hundreds of telegrams. The phone wouldn't stop ringing. This problem was a problem throughout our country, not just in the State of Nevada. All over the country the IRS had not been treating people appropriately.

I was not able to move the legislation in the House for various reasons. The chairman of the subcommittee in the House liked the IRS more than he liked my legislation. I was elected in 1986 to the Senate. My maiden speech in the Senate related to the same Taxpayer Bill of Rights that I introduced in the House and that I said I was going to introduce here. Very fortunately for me, and I hope for the country—I feel confident that is true—presiding over the Senate that day was the subcommittee chair of the Finance Committee subcommittee that had jurisdiction over the Internal Revenue Service, David Pryor, from Arkansas. Senator Pryor sent a note to me by a page, after I finished my speech, saying: I like what you have said. I want to work with you on this.

Also, that same day, CHARLES GRASSLEY, a Republican Senator from Iowa, made contact with me saying: I want

to work with you on the Taxpayer Bill of Rights. So I had two very senior Members of the Senate who wanted to work with a brand new Senator's legislation that we now call the Taxpayer Bill of Rights. We conducted hearings and we learned some amazing things.

I would relate to the chairman of the Finance Committee, even back then we had some very courageous people who were the beginning of some of the people who came forward in the latest round of hearings relating to the IRS restructuring reform bill. For example, we had one IRS employee from Los Angeles who put his job at risk, because the IRS testified that they did not promote people on the basis of how much money they collected. This IRS employee came in and said, "That's not true." He said, "In our office there were big glass windows in the inner offices and there were big pieces of paper there saying: 'Seizure fever, catch it.'" That was a message to all the IRS agents that they should go out and seize all the property they could. That would get them promotions. We therefore outlawed promotions on the basis of how much money was collected and we outlawed quotas.

The Taxpayer Bill of Rights passed, and on November 10, 1988, President Ronald Reagan signed into law the Taxpayer Bill of Rights that I had written. But I acknowledge I could not have gotten that done without the tremendous support from Senators Pryor and GRASSLEY. They were champions. They were on the Finance Committee, and they were the ones who were responsible for working with me and moving that legislation.

The Taxpayer Bill of Rights, signed by President Reagan, really did create new rights that taxpayers had never had before. For the first time in the history of the country, the taxpayer was put on a more equal footing with the tax collector. Note I say "on a more equal footing with the tax collector." The tax collector still had some serious advantages. Because of that, Senators Pryor, GRASSLEY, and I moved forward with the Taxpayer Bill of Rights 2.

We had some difficulty with that. It was vetoed on a couple of different occasions, not because of the substantive nature of our bill, but because it was part of a tax bill. It was part of partisan wrangling which took place here, and President Bush vetoed the bill twice. Included in that bill was our Taxpayer Bill of Rights 2.

However, in July of 1996, we achieved a crucial milestone on the road to IRS reform when President Clinton signed the Taxpayer Bill of Rights 2 as Public Law 104-168.

I underline and underscore, President Bush did not oppose our bill when he vetoed the tax bill. I repeat, it was part of an overall tax problem that caused him to veto the whole tax package. So we had Taxpayer Bill of Rights 1 and 2. They both did things to help the taxpayer versus the tax collector.

I served as an appointed member, by then-Leader George Mitchell, on the Entitlement Commission. I served there with Senator KERREY and others. I came to the realization at that time that the IRS, even though we had Taxpayer Bill of Rights 1 and 2, still needed significant work, principally because of how much money it cost the American taxpayer and the government to collect the taxes. It was estimated during the entitlement hearings that it cost about \$500 billion a year just to collect the income tax of this country.

In the autumn of 1997, Senator GRASSLEY, Senator KERREY of Nebraska and I introduced the IRS Restructuring and Reform Act of 1997. I was happy to join in that. Someone asked me in an interview, "The President doesn't support this; why are you out on front on this?" I said, "I believe he is going to have to get out of the way or the steamroller is going to run over him," and, in fact, that was true. Within a few weeks, the President and many others joined in this legislation which initially had very little support.

The bill we introduced was referred to the Ways and Means Committee, and the chairman of the Finance Committee in the Senate, the senior Senator from Delaware—I say through the Chair to my friend, the chairman of the committee, as a matter of information, are you the senior Senator from Delaware? Yes, he is. Both Senators have served a long time, and I wasn't certain which one was the senior member.

The chairman of the Finance Committee, the senior Senator from Delaware, held some hearings that I thought were very probative, very important to get the American people behind this legislation. The witnesses were carefully chosen. I thought the timing of those hearings was very good to add impetus to this legislation.

In his State of the Union Address, President Clinton challenged the Congress to pass the IRS reform bill as its first order of business. I am glad it is one of the things that we have worked on very quickly.

This bill has been outlined on several occasions today. It shifts the burden of proof; it expands IRS authority to award administration and litigation costs; it expands current law to allow taxpayers to sue the Federal Government; it requires the IRS to fire an employee for misconduct relating to the employee's official duties; it creates an oversight board to watch over IRS administration, management and conduct; and it does something that I think is so important—it creates confidentiality between the tax preparer and the taxpayer. I think that is very important.

The bill also contains a provision addressing the meals tax. As a matter of good-faith bargaining between an employer and employee, if they say that an employee should have a meal on the premises, that meal is not going to be taxed by the IRS.

Also, there is something I call the "rewards for rats" program, where private citizens are encouraged to turn in those who they believe are not paying their fair share of taxes. The IRS is directed to examine the conduct of this program. It is important to find ways to prevent such things from taking place.

It also does very important work related to an innocent spouses. The other issues that are covered here have been elaborated upon in some detail, but innocent spouse status I want to talk about a little bit.

My daughter—I have one daughter and four boys—my daughter had a wonderful teacher. She was a second grade teacher who had moved from the Midwest to the Las Vegas area and had recently gone through a divorce. Her husband had been a bank officer, and had embezzled huge amounts of money. Totally unaware of this was the second grade schoolteacher in Las Vegas.

The fact of the matter is, though, the IRS—and I won't talk about the woman's name—were relentless in going after this woman's wages. She was a schoolteacher. She had no money other than her limited salary from teaching, and they just harassed and badgered this poor soul unbelievably. At the time I said, some day I hope I have an opportunity to prevent further acts against people like Mrs.—I won't mention her name. And we are doing that today.

In the future, innocent spouses will have an opportunity to explain their situation as innocent spouses. This is important legislation. Why should somebody who steals huge amounts of money from a bank, as in this example, shift the burden of proof to an innocent spouse? It is not fair, and this legislation will solve that problem.

I believe Congress works best when it works together. This legislation is bipartisan legislation. This legislation is a testimony to the power of bipartisanship and how we need to act together to focus on the problems that relate to the American public.

This legislation is legislation the American public wants. It is legislation in which this Congress has joined together in a bipartisan fashion under the leadership of the chairman of the Finance Committee. I am a member of the other party from this Senator, but I say publicly that under his leadership, this legislation has moved along to a point where we are now passing a bill.

I am sure the senior Senator from Delaware has many things that he is proud of having done in his long legislative career, but I hope today's resolution of this very important issue will be near the top of his legislative list of accomplishments. I am very happy with having worked with him, with the senior Senator from Nebraska, and with Senator GRASSLEY from Iowa, to the point that the legislation which we introduced a year or so ago is now going to become law. I also want to

recognize the essential role played by my good friend the ranking member of the Finance Committee, Senator MOYNIHAN.

I, again think this legislation is reflective of how our country works when the people of this country speak out loud enough for us to get the message. We have gotten the message. Hopefully, we have answered the concerns of the American public. I am confident that we have.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the Senator from Nevada and I have had the occasion to work together on a number of things. I appreciate his early support, not just of this piece of legislation, but his early support for changing laws giving taxpayers more rights when dealing with the Internal Revenue Service. This is just a continuation of Taxpayer Bill of Rights 1 and 2 with which I know the Senator from Nevada was very much involved.

I also thank him for bringing to our attention this issue of meals deductibility. That was a judgment that was being made by the Treasury Department. I understand it is one of those situations that sort of makes sense if all you are doing is pushing a pencil and trying to make your numbers and the law come together. Had he not brought that to our attention, we would have had one more example, one more situation where the Code becomes enormously complicated, enormously burdensome. What happens is, people just lose confidence in their government. They say, "How could you do something so stupid?"

I appreciate him bringing it to our attention. It had not been brought to our attention. Not only would the people of Nevada have been up in arms about it, but I say throughout the country. I say to my friend from Nevada there would have been an awful lot of people knocking on our doors talking to us about "How could you do something that required people of average means to reach even farther to try to stay on the right side of the law?" I was happy to assist in this matter, but I assisted not just to help the people of Nevada who have such able leadership in the Senator from Nevada, but I believe everybody from the United States of America is going to benefit as a consequence of that change.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair. Mr. President, let me preface my comments by joining the senior Senator from Nebraska in commending my senior Senator from Nevada for his untiring efforts for taxpayers not only in Nevada, but across the country, in terms of his efforts on the earlier variations of the bill of rights and the strong support of the legislation that we are debating today and that will be signed into law very shortly by the President.

Mr. President, I come to the floor this morning as a member of the Senate Finance Committee to offer my strong support for this historic legislation. It has been a long time coming. It has been a difficult process, but it is clear that the American people will benefit greatly as a result of this legislation which will soon be signed into law by the President.

None of us really enjoy paying our taxes. But the vast majority of Americans do make a good-faith effort to pay their fair share. And while the IRS will never be popular, the legislation that we will soon vote on will go a long way in providing fairness to taxpayers in their dealings with the IRS and will assist Commissioner Rossotti to meet his goals of making the IRS a more efficient and customer-oriented service.

Mr. President, the American tax system is essentially one of voluntary compliance. And implicit in that relationship is a sense on the part of the taxpayer that he or she is receiving fair treatment. To the extent that that perception is diminished, it undermines the public confidence in our system, it reduces the level of tax compliance, and it creates problems for those of us who do comply with this system and who will be paying a disproportionate share, larger than our fair burden, for those who do not.

So it is a responsibility of the Congress to make sure, in its oversight capacity and the laws which we enact, that the IRS operate in a fair, evenhanded way in dealing with the taxpayer. And I must say, as a result of the hearings that the chairman of the committee held, the abuses that were pointed out, in several instances, are rampant. And I will comment on those in just a moment.

I think it is fair to put this in some perspective as well, and that is that the great majority of employees of the IRS are really very dedicated public servants. They try to do their very best in performing the duties that they have. Much of the criticism that is directed against them properly ought to be directed against us. It is the Congress that enacts the code, and it is by every standard extraordinarily complicated, complex. Each year that we seek to make improvements to the code, at the same time it is also fair to say that we add additional complexity to it.

That having been said, that their job, being the IRS and the employees of that Service have a very difficult job, there is absolutely no excuse for the kind of conduct that we saw evidenced in the hearings that the chairman had this year and last year. That is totally unacceptable conduct. I believe that several of the reforms that are addressed here in this legislation will help to alleviate those kinds of conditions.

In addition to the obvious problems that were pointed out in the hearings, other problems are a bit more subtle, but they are also damaging to the taxpayer. And that is poor and inefficient

management, inadequate and outdated computer systems, or the corporate culture that we saw much evidence of—the view of the taxpayer as the adversary instead of the customer. That has been deeply entrenched.

One example that comes to mind is the quota system. There had been an attempt, in previous legislation, to send clear, unmistakable direction to the IRS that a quota system is not to be employed. A quota system forces the revenue agent to look at a taxpayer who comes into his or her office, not as a customer who has a problem that needs to be dealt with, but as a quota, that is that he or she is to be viewed as an individual from which that revenue agent must collect a certain amount of dollars, much like a traffic cop who is told by his or her boss that some 15 or 20 tickets must be issued each day. And that is what creates this adversarial system.

We thought that we had eliminated that practice and that abuse. But no sooner had the chairman convened the hearings last fall that I received in my office, from an employee in the IRS office in Las Vegas, an internal document that gave every appearance of being a quota. Those in charge asserted that it was not a quota, but in point of fact, clearly, the revenue agent was given the impression that each individual was to be assessed a certain amount of money in terms of additional tax to be brought in. And clearly implicit in that direction was the fact that that employee's future and career prospects with the Internal Revenue Service would be judged based upon his or her performance. Hence, this confrontational relationship that I described continued to be deeply ingrained as part of this culture.

Now, those are not easy things to root out. I must say that Commissioner Rossotti and the interim director, in response to questions that I raised during the course of those hearings, reaffirmed the policy that no quota system would exist and that the practice which had been conducted in Las Vegas, and perhaps other district offices as well, was not to be continued. And to the best of my knowledge, there has been no indication that it has.

However, I do think that one of the fundamental changes made in this piece of legislation—the creation of a citizen oversight board, involving six members from the private sector—can be very helpful in monitoring the kinds of activity which comes to our attention as Members of Congress and, hopefully, will be helpful in eliminating that practice. Although it does not have the pizzazz of some of the other provisions, I believe the power that we invest in the new Commissioner to make changes at the top level of management will also have some far-reaching consequences.

It is clear that those who are steeped in this corporate culture, this deeply ingrained practice that I and others who have spoken on this issue have de-

scribed, simply are unable to make that change, that the frame of mind that allows that to continue has been such a part of the daily operational conduct of the agency that in some instances at the top level individuals simply have to be replaced.

I think it is important to point out that in Commissioner Rossotti we have the first Commissioner whose background is not tax accounting law, but he is an individual who is a businessman, not a lawyer, who has committed to provide the kind of management reforms that we need to change that corporate culture. So the powers that we give him to make those kinds of changes, which no previous Commissioner has had, I think will help to send a very powerful message at the top that this is not business as usual and that we want not only a more efficient and a more responsive agency, but we want an agency that eliminates the kinds of abuses that were provided during the course of the hearings.

Some years back the Congress intended to provide an ombudsman, as it was initially called, later a Taxpayer Advocate, to represent the individual. Those intentions, I think, were well conceived. Indeed, in their implementation, I think an effort was made to create such a position. But in point of fact, individuals who were chosen to serve in this capacity came directly from the IRS, returned to the IRS, and because that individual's ultimate career plan in the IRS could be impacted by his or her performance as a Taxpayer Advocate, the Taxpayer Advocate Office did not achieve its desired purpose to provide independent representation and advocacy on behalf of the taxpayer.

I believe in the legislation that will be signed into law, as a product of this bill, that we have created that kind of independence by making it clear that this is not an individual who can come directly from the IRS and immediately, upon completion of his or her tenure in the Office of Independent Advocate, once again continue a career path within the IRS. That independence, in fact, as well as perception, I think, will provide invaluable help to America's taxpayers.

Much criticism is directed at the agency and much is warranted. Let me comment, in the interest of balance, on something that the agency has done an excellent job in doing and that is the implementation of telefiling. It is a paperless tax filing system. In 1997, nearly 5 million taxpayers took advantage of that by simply picking up their telephone and filing their return. Its calculation is done on the other end. It is paperless. It is fast. Those taxpayers who have a refund coming to them will receive that refund much more quickly than in the process in which one files a paper return that is processed. It also is less cumbersome for the IRS in terms of the paperwork which has been generated, thousands and thousands of different forms and millions and mil-

lions of returns. So it helps us achieve the goal of efficiency in terms of the IRS' response.

I am pleased to note in 1998, nearly 6 million taxpayers took advantage of the telefiling. That is an increase of nearly 27 percent. Indeed, that is just the tip of the iceberg. The potential is significantly greater. Other types of electronic filing have also been developed. In 1997, we had about 14 million who filed electronically. In 1998, some 18 million. That is 28 percent. That also provides for a faster evaluation of the return, provides less opportunity for errors, for misdirected paperwork, and I think will be extremely helpful in providing the standard of service to which the American taxpayer is entitled.

Among the more significant things, dramatically significant, is a shift in the burden of proof for taxpayers and small businesses when their dispute with the IRS reaches the Tax Court level. That shifts the burden of proof from the taxpayer to the IRS. That will be another significant change. Perhaps if there is any one change that more dramatically signals what we are trying to accomplish in this legislation in trying to provide fairness to the American people who are attempting to comply with a very complicated tax system, this is an indicator.

Having practiced law in years past, I am not unmindful of a situation which innocent spouses are frequently victimized by the conduct of their spouses, oftentimes in the context of separation or divorce, in which the spouse involved in business is involved in either concealing or fraudulently filing a return, that return is jointly signed by the other spouse who has no involvement in the business and no culpability. The offending or culpable spouse is no longer available and the IRS turns to the innocent spouse. By any fair standard, that is conduct we should not endorse. An innocent spouse truly not involved, not culpable, should not be victimized by the conduct of his or her spouse. This legislation provides expanded benefits and protection for the innocent spouse.

In addition, we do several other things. That is, we provide for additional authority to award litigation costs to taxpayers who prevail in court disputes with the IRS. It costs a great deal of money to engage counsel. Most American taxpayers are not in the position to afford that kind of expense. It is only fair when that taxpayer prevails that, indeed, the cost of the litigation be recovered in favor of the taxpayer. We send a very strong message that the kind of misconduct which was much in evidence during the hearings last year and this year is not to be tolerated. We say to the American taxpayer, to those who have been victimized by such conduct, that a cause of action for civil damages based on claims of negligence by IRS employees will now be available to such taxpayers.

We improve taxpayers' rights during audits, collections, including prohibiting the IRS from seizing residences for deficiencies of under \$5,000 and prohibiting the IRS from seizing a residence without a court order, increasing the availability of taxpayer assistance, reducing penalties for taxpayers making good-faith efforts. I think this might require an additional word of embellishment.

For those taxpayers who for whatever reason have failed to pay their full amount of taxes due, who are on a schedule of payment, only to find that the compounding effect of penalties and fines makes it virtually impossible for them ever to reduce the amount of principal that is the original amount they failed to pay, nothing could be more frustrating, nothing could be more discouraging, and it is a disincentive to those taxpayers who say, look, I recognize I owe the money, but I don't have it all. Establish a schedule of payments so I can make my payments. We heard testimony of people who had paid for extended periods of time and after having made such payments really had not reduced their principal; if at all, very minimally. This legislation addresses such an issue, and I think will be an incentive and encouragement for taxpayers to, indeed, begin making payments and to see the proverbial light at the end of the tunnel.

Greater disclosure and notice to taxpayers, including details of the computations of any penalties and interest due; more detailed explanations of the entire audit and collection process in the first deficiency notice; disclosure of taxpayers' rights at interviews with the IRS; disclosure of the criteria for examination—all part of the process to make one's visit to the IRS less of a mysterious and frightful experience, but to provide the taxpayer a broader understanding of the circumstances that bring him or her to the office—rationale for the deficiency, for any that is assessed, what that taxpayers' rights are in terms of responding.

In sum, Mr. President, all of these provisions should result in a more efficient and friendly IRS in the future.

I want to commend the chairman of our committee with whom I have had the great pleasure of working in this Congress as a newly appointed member to the Senate Finance Committee, the ranking member, the senior Senator from New York, and my colleague who sits to my right, the senior Senator from Nebraska, Senator GRASSLEY and others, who have labored in the vineyards for many years to provide fairness to the Code. It has taken us a long time. I freely acknowledge that some of us have been frustrated and thought this ought to have been done last year, but there can be no doubt that our work product that will ultimately be signed into law will be a vast improvement for the American taxpayer, and it does enjoy the imprimatur of bipartisan effort and support.

Finally, I will address an issue that has been of concern for literally tens of thousands of Nevadans who work in the hotel industry in our State. It is not a provision that is confined or limited to Nevada only because the practice in the hotel industry not only in my own State but across America is to provide for the convenience of the employee, by the employer, a meal at the business location. For more decades than I can remember, that benefit has been provided and it has been viewed as a nontaxable benefit. That is to say that the meal is provided and that there is no tax liability attached to that benefit that the employee must pay as a result of receiving that meal at the employer's expense, on the job, at the employer's place of business.

A year ago, a decision of the Tax Court astounded most of us who are familiar with the practice and created a situation that would be monstrously unfair to literally tens of thousands of taxpayers in my own State where this issue was widely publicized, but would have the potential of affecting hundreds and hundreds of thousands of employees in every State in the Union. Not only would it be unfair to those employees who no longer would receive that benefit—and there would have been hundreds of thousands, as I say, across the country—but it would have created the anomaly that some employees in some occupational categories may continue to receive the benefit, their coworkers who worked alongside them in a different capacity would not have received that benefit, thereby creating an inherent morale problem within the workforce and a nightmare for employers to administer. That decision sent a shockwave throughout the hotel industry in my State, and employees were much concerned.

The consequence of the Tax Court's decision, uncorrected, would have imposed several hundreds of dollars of additional tax liability each year. We are not talking about those who are part of a senior executive class, whose salaries are six figures or greater. By and large, we are talking about people who tend to be at the bottom end of the pay scale in the hotel industry—those who are porters and maids and in other categories. So hundreds of dollars, for them, had a major impact.

I am pleased to say that as a result of the bipartisan support and the efforts of Nevada's delegation and the leadership on both the Ways and Means Committee and the Senate Finance Committee, and several of our colleagues who served as conferees—I acknowledge that the senior Senator from Nebraska and the senior Senator from Louisiana who, in addition to the chairman and ranking member on our side, were extremely helpful—that consequence is not going to be visited upon the tens of thousands of employees in my own State and the hundreds of thousands elsewhere.

In effect, a provision that is incorporated in this conference report will

reverse the Tax Court's decision and will continue a practice that was established in terms of fairness and equity and will allow those employees to continue to receive those benefits without the additional tax consequences that the court decision would have imposed upon such employees. I want to publicly acknowledge all who were involved in helping to make that provision part of this provision.

So, finally, Mr. President, this will not make this code a perfect code. I suspect that this will not be the end of our endeavors to provide additional ways in which we can provide fairness to the American taxpayers. But, hopefully, as a consequence of this legislation, the word will come from this Congress to the American people that we heard the complaints, we understand their legitimacy, we recognize that in a system such as our own, in which the compliance is essentially voluntary, we have an obligation to make sure that those who are trying to comply with the provisions of our complex Tax Code are treated fairly and, when problems are called to our attention, we will correct them.

Again, I salute our colleagues who worked on this. I thank the chairman and the ranking member of the Finance Committee for their courtesies in hearing the concerns that I and other members of the committee brought.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise in strong support of the Internal Revenue Service Restructuring and Reform Act. I want to take this opportunity to commend Senator ROTH for the outstanding work he has done on this legislation. As a new Senator, I was impressed with the hearings that Senator ROTH conducted and which have galvanized this institution to move on something that was a compelling need. They were dramatic hearings not because they were highly choreographed or because there was sophisticated promotion; they were dramatic because of the impact and the gripping nature of the stories that were told to the committee and to the American people.

I think our country and this institution owe a great debt of gratitude to the Senator from Delaware for the role that he has played in calling the attention of the American people to the abuses. It became evident during the course of both sets of hearings that these stories were not isolated incidents but were all too typical, as we found from the response of the American people in calling our offices all over Capitol Hill about similar incidents that had occurred.

I want to take just a moment to praise my predecessor in the U.S. Senate, the former senior Senator from Arkansas, Senator Pryor. Senator REID

spoke of his role in taxpayer rights in the past. I think that the work Senator Pryor did as a Senator from Arkansas has helped to lay the groundwork for the step that we are taking as a body today. I want to express my appreciation on behalf of the people of Arkansas and on behalf of taxpayers across this country for Senator Pryor's unfailing efforts and untiring efforts to provide protections for the taxpayers of this country. And although the Taxpayer Bill of Rights was not the ultimate solution, and the Taxpayer Bill of Rights 2 was not signed into law, it helped to call our attention to it and to galvanize the American people to push for this action. I want to pay my highest regards to Senator Pryor, who I know is pleased with the action that the U.S. Senate is taking today.

I think the protection provisions in this legislation will take a big step toward assuring the American people that we are still on their side and that the tax system of this country is not stacked against them. We should remind ourselves of the things that this does not do. It would be, I think, a shame if this legislation were to be the release on the pressure that has built up over the years to demand comprehensive tax reform. This is an essential step, and it moves the ball in the right direction. It does not simplify the code. The code is still a labyrinth of confusion, incomprehensible to many people, tax preparers, and to many in the IRS themselves. It does not provide the lower rates the American people deserve, and it does not eliminate inequities in the code, like the marriage penalty and the exorbitant estate tax rates. I know Senator ROTH will continue to push for comprehensive tax reform for the taxpayers of this country.

I believe that one way we can do that is to set a sunset date, a date certain in which this Tax Code will be eliminated and we will require ourselves to take action in providing comprehensive tax reform, a lower tax rate, a fairer Tax Code for the American people. We may disagree on that, but it is imperative that this be one more step in moving toward what is essential, which is comprehensive tax reform for the American people.

I will conclude with a statement that President Clinton made during his recent trip to China, in which he addressed the students at Beijing University and spoke to them about the nature of freedom, about our heritage of freedom in this country. I believe that what he said—and said eloquently—applies to the ongoing debate about IRS reform and restructuring and making the Tax Code of this country fairer for the American people. He said:

In America, we tend to view freedom as the freedom from Government abuse or from Government control. That is our heritage. Our founders came here to escape the monarchy in England.

Then he said this:

Sometimes freedom requires affirmative steps by Government.

I simply say that this legislation, which Senator ROTH has led the way on, is an affirmative step that this Government must take to ensure that the American people truly enjoy the fruits of freedom, which is our legacy and heritage.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I want to make a few comments on the IRS Reform Act, which is now on the floor. This is indeed, in my opinion, a very historic day. Never before in the history of the Internal Revenue Service have we ever had legislation that brought about massive changes to an institution that is not thought of too well by the American people. This legislation goes far beyond anything that Congress has ever done in trying to reform the Internal Revenue Service.

I want to join with others in commending a couple of people for the work they have done, particularly the chairman of our committee, the distinguished Senator ROTH, who chaired the hearings, which really woke up a number of Members of Congress to the massive problems that were out there. It was really very moving to hear American citizens come in and actually tell about their experiences and the abuses they had suffered as a result of the Internal Revenue Service.

I would, I think, fairly and properly add, however, that the vast majority of the people who both work for and work at the IRS are good, honest, decent citizens of this country, who are very loyal to what America stands for and respect the rights of taxpayers in this country. But as in any institution, whether it be government or private, there are abuses. What the hearings were able to do was to lay out in a public forum the problems with the current bureaucracy that represents the Internal Revenue Service.

I want to commend, in addition to Senator ROTH, Senator MOYNIHAN for the work he has been doing, and I think Senator HUTCHINSON was proper in pointing out also the work done by a former Member of this body who used to sit right about over there on the Democratic side, a member of the Democratic leadership, David Pryor. He is not with us today, he is residing in Arkansas, but he is with us in spirit in the sense that we are discussing today something that he started a long, long time ago with his Taxpayer Bill of Rights.

Long before the Roth hearings, David Pryor was working on this particular problem in bringing our attention to the defects that the IRS had. He always stood up for the individual taxpayers of America. I know that wherever he is in Arkansas, or wherever today, he is justifiably proud of the work that is being done today because he led the way in that area.

The final person is Senator KERREY in this body from the great State of

Nebraska who chaired an IRS reform commission. As one who chairs a commission right now, I know how difficult it is to try to get people to agree and make recommendations on how to reform legislation. Many times a commission has so many experts on it that it is difficult to get any kind of consensus about change. But Senator KERREY led the way in getting a commission to focus in on this problem and help produce legislation and recommendations. Without his work on the committee itself this product would not be in the good shape that it is in today.

I am reminded of the old stories, which are repeated in Louisiana. You have various versions of this. One of them heard is about the two greatest lies ever told. The first one is people who say, "I am from the Federal Government. I am here to help you." Of course, the second greatest lie could be just about anything that you want to add to it. And I have heard various variations, which I would not care to repeat on the floor of the Senate. But the first one is, "I am from the Federal Government. I am here to help you."

It is true in a sense that people have a great deal of mistrust in many institutions of government. That is unfortunate. When most people think of the Internal Revenue Service, they do not think of the word "service." They think of fear, they think of intimidation, they think of threats, and they think of all sorts of things, none of which are very good. The last thing they think of is service.

This legislation today will go a long way to restoring service to the Internal Revenue Service and letting that agency of our government know that their principal function is to serve the people of this country. They work for the taxpayers—not the other way around. The taxpayers in Louisiana should know this is a major improvement in how that agency is going to have to operate in the future, so that no longer if you get a letter from the Internal Revenue Service should there be a fear of opening it. No longer if you get a call to come down and meet with someone from the IRS should you be intimidated about having to fulfill that request.

Some have advocated: "Just abolish the agency." That is a good headline. That will get you 15 seconds of fame perhaps. But is it responsible? No. Is saying, "We are going to abolish the Tax Code; and don't worry, sometime in the future we may replace it with something we hope might be better than we have now," responsible? How do you buy a house if you do not know what the Tax Code is going to be? How do you make a business investment if you do not know what the tax laws are going to be in 12 months? While it is very simple to say, "Let's abolish everything and hopefully one day we will replace it with something that will be better than we have today," I question whether that is the responsible thing to do. It is much easier to, as they say,

kick down the barn than it is to construct a new one.

But what we are trying to do with the Roth legislation and people who put this package together is to say we want to repair what is broken. We want to reform what needs reform. We want to tell the American taxpayers there will be predictability in how and when and how much tax they legally owe to run the government functions that are important to this country.

This legislation accomplishes what I think is incredibly the most massive change in the IRS that we have ever had since the agency was created—to restore service, to restore confidence, to restore fairness to the American people when they have to deal with their government, which hopefully will treat them in a fashion that makes all of us much prouder of the work that we have done with this legislation.

Let me just make a comment about one particular aspect of the legislation which I think is important.

The government, it is clear, has thousands of lawyers working for the IRS on behalf of the government—when a taxpayer is called upon, and it is said that they are deficient in some kind of a way—to represent the government's interests. Now, under this legislation we will have a taxpayer advocate who will now be called the National Taxpayer Advocate. We have done more than just change the name. We have changed the functions. Taxpayers should know that they will have someone who will be on their side when they have a problem to discuss with the IRS—someone who will represent their interests, and not just represent the interests of the government against them, but represent their interests before their own government. I think that is incredibly important.

The National Taxpayer Advocate will be appointed by the Secretary of the Treasury, but only after consulting with the Commissioner of the IRS and the new IRS oversight board.

It is very important to further point out that the Advocate would have to have experience in customer service representing customers—not representing just the government. You will have a requirement that he also—or she—has to have experience in tax law and have experience representing individual taxpayers. You would think you would not have to spell that out. But we have to make sure that person who is going to be in that position has experience representing individual taxpayers, has a knowledge of the tax law of this country, and also has background in customer service, also getting back to the point that this is a service organization of our government.

I think it is particularly important to ensure their independence—that we have also required in this legislation that the Taxpayer Advocate cannot have been an IRS employee within 2 years of his or her appointment, and must agree not to work for the IRS for

5 years after serving in this position. Why is that important? I think it is pretty obvious—to ensure their independence. We just do not want to pull someone out of the IRS and have them serve in this position representing taxpayers knowing that one day they will go right back to the IRS, or to have a career in the IRS and have that mindset guiding what they do representing the individual taxpayers. No. We have done just the opposite. We say that the Taxpayer Advocate has to have experience in representing the taxpayer and have experience in customer relations and not be an employee of the IRS, and not go to the IRS within 5 years after they leave this job.

What that will ensure is that we will have a National Taxpayer Advocate who will be truly interested representing the individual taxpayer, so that taxpayer will know that there is someone on his or her side for a change when they have to present their case.

I also point out that people believe lots of Americans are audited. That is not true. It is not true at all. Less than 2 percent of the people in the country are ever audited by the IRS. Ninety-eight percent of the people, plus—more than 98 percent—file their taxes, pay their taxes, maybe get a refund, and maybe have to owe something. But that is it. Ninety-eight percent plus of the people in this country are never audited, and abide by the law. Less than 2 percent ever have a problem with having to be audited. But when a person falls into that situation, under the new IRS service they will be assured of the fact that there will be an advocate who will stand by their side and represent their interests, and not just be an IRS employee, saying, “Don't worry, we will take care of you.”

This is a major part of the reform that we will be voting on today.

I would just say that this is monumental change. It is important. I think everyone who has worked and contributed to this effort, of which there have been many, would conclude with me that when we work in a bipartisan fashion we produce good results. And that is what we are voting on today—good legislation for all of America.

I yield the floor.

Mr. JEFFORDS. Mr. President, our passage today of the IRS restructuring bill is a tribute to the dogged and determined efforts of Finance Committee Chairman ROTH. This reform effort originated with the report of the bipartisan National Commission on Restructuring the Internal Revenue Service, filed just over a year ago. It was given further impetus by the historic Finance Committee IRS oversight hearings held last year. Those hearings were the first comprehensive oversight hearings ever undertaken by the Finance Committee. They showed us how miserable the lives of average, law-abiding taxpayers could be when they ran afoul of a tax collection agency that was at best uncaring, and at worst

abusive. Many taxpayers' suffering was prolonged; their cases got lost in an IRS black hole and took years to resolve. These oversight hearings really struck a nerve with the public, which flooded our offices, and the Finance Committee, with further complaints of abuse, mistreatment, and inattention. There were widespread calls for IRS reform. This public response not only led to further oversight hearings, but it also showed that any reform effort needed to be comprehensive, addressing a range of issues broader than those that surfaced during our oversight hearings. To his credit, Chairman ROTH resisted calls for a quick fix, adopting instead a methodical, thoughtful approach to reform.

The result represents the most comprehensive reform of the Internal Revenue Service in more than 45 years. This bill contains over 50 new taxpayer rights, leveling the playing field for taxpayers. It calls for an innovative oversight board. It assures that Congress will no longer shirk from oversight responsibilities. It calls for innocent spouse relief for taxpayers, usually women, who were the unknowing victims of former spouses that underpaid their taxes.

There are three aspects of this bill that I believe are especially significant and on which I want to focus my remarks. The first is the new organizational structure at the IRS. Until now, the IRS has been administered by the Commissioner and his or her subordinates, many of whom have spent their entire career at the IRS. Since World War II, every commissioner has been a tax lawyer. Last year, Commissioner Charles Rossotti, a non-attorney, skilled in the areas of information management and familiar with the problems inherent in running a large organization, took the reins. With over 100,000 employees, the IRS presents a significant management challenge. Effectively managing an agency the size of the IRS requires skills other than those necessary for tax law enforcement. With a fresh viewpoint, Commissioner Rossotti has already made some proposals for reform that look promising. He has proposed to restructure the agency on a functional, rather than geographic, basis. This will allow functional units of the IRS to develop in-depth expertise in specific aspects of tax law and to provide more efficient service. The re-structuring bill builds on this fresh point of view, directing the Commissioner to implement an organizational structure with units serving particular groups of taxpayers with similar needs.

Further, this legislation bill will assure that the IRS continues to benefit from fresh ideas. Administration of the IRS will be supplemented by new nine-member board, responsible for oversight of administration, management, conduct, direction of the IRS, as well as administration and execution of the tax laws. The majority of the board

will be outsiders with expertise in such areas as customer service and management of large service organizations. These outsiders, not wedded to the current way of doing things, will be able to offer valuable input on new ways of doing business and will provide an important link to expertise from the private sector. To my knowledge, this type of public-private management partnership is unprecedented.

An IRS employee representative is also on the oversight board. The presence of an employee representative on the board generated a substantial amount of controversy. In my view, inclusion of this representative will be key to the success of any future reform efforts. Reforming the IRS is not going to work unless it enjoys the support and understanding of those charged with carrying out the reforms. The employee representative's input will be very valuable, enabling board members unfamiliar with the day-to-day IRS operations better assess the impact and workability of reform proposals.

Another aspect of this act that I think is particularly important is its emphasis on quicker and fairer dispute resolution. Taxpayers I have talked to are really bothered by the length of time it takes to resolve problems at the IRS. While cases await resolution, interest and penalties on unpaid taxes continue to accumulate. Frequently, the amount of interest due on unpaid taxes ends up exceeding the amount of taxes themselves. This bill contains several provisions that should make dispute resolution faster and more efficient. First, it provides that if the IRS doesn't contact taxpayers within a year after they file their returns, interest and penalties will not continue to accrue until the IRS sends the taxpayer a notice that additional taxes are due.

Second, the bill mandates that the Commissioner's restructuring of the IRS include an independent appeals function. This appeals unit is intended to provide a place for taxpayers to turn when they disagree with the determination of front-line employees. A truly independent appeals unit will assure that someone takes a fresh look at taxpayers' cases, rather than merely rubber-stamping the earlier determination.

This legislation also broadens the powers of the IRS Taxpayer Advocate. This will be especially important to taxpayers who find themselves facing immediate and serious harm as the result of actions taken by the IRS. In cases of hardship, the Taxpayer Advocate can intervene to issue taxpayer assistance orders, requiring the IRS to release seized property or otherwise refrain from taking action that could result in a significant hardship. The definition of "significant hardship" is expanded. This should make taxpayer assistance orders more widely available. In addition, the bill provides that persons appointed to the post of Taxpayer Advocate must agree not to accept em-

ployment with the IRS during the five-year period following their tenure. This will assure that they won't hesitate to overturn IRS actions out of concern about offending future bosses or co-workers.

These provisions represent important steps to cut down on the time it takes to resolve disputes. In addition, the bill provides for informal Tax Court proceedings in certain types of small cases, giving more taxpayers, usually without lawyers, a greater opportunity to resolve disputes that cannot be resolved administratively. Expanded criteria for installment agreements and offers-in-compromise should mean that more taxpayers will be able to take advantage of those settlement tools.

The last aspect on which I want to comment is the role that Congress will play in these reforms. With more frequent Congressional oversight, perhaps a bill of this scope might never have been necessary. With more oversight, we in Congress might better be able to identify and address problems when they first arise. This bill imposes oversight responsibilities on Congress. It will assure that the Committees of Congress with jurisdiction over the IRS will hold an oversight hearing at least once a year.

In addition, this measure requires that when Congress passes a tax bill, it must consider the practical consequences of tax law changes. Our tax system is built on the principles of self-reporting and self-assessment. Luckily, we have relatively high compliance rates from individual taxpayers. The increasing complexity of our tax laws, however, threatens to undermine voluntary compliance. The more complex the law becomes, the more difficult we make it for taxpayers to comply. The bill provides that IRS should comment on the administrability of tax law amendments when they are under consideration by the tax-writing committees. The IRS must also submit an annual report on sources of complexity in administering the tax code. Finally, the bill requires committee reports to include an analysis by the Joint Committee on Taxation of complexity and administrability issues. When we considered the tax law proposals in the Taxpayer Reform Act of 1997, it would have been helpful to know how those proposals would translate into new record keeping and paperwork requirements for taxpayers. This analysis will be a helpful, welcome addition to the legislative process.

I suspect that nothing we do will make the IRS loved, but this bill makes it a kinder and gentler agency. It will be an agency guided by principles of fairness, rather than the bottom line and an agency held accountable for its actions, no longer out of control. Any organization the size of the IRS is going to experience some problems, and adoption of this conference report isn't going to solve every problem in our tax collection process. Still, it is our obligation here

in Congress to see that those problems are minimized to the largest degree possible. This bill marks the beginning of fundamental structural changes at the IRS; it changes the way the IRS does business. It also provides important new protections for taxpayers embroiled in a dispute with the IRS. Most taxpayers pay their taxes and never again hear from the IRS. These taxpayers may not appreciate any immediate consequences of the new taxpayer protections. All of us, however, should benefit from a more efficient and effective tax collection process that I hope will result from the sweeping reforms we initiate today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I believe in the order I was the next to speak, but our colleague from Utah has a committee hearing to chair, and so I would ask that he be recognized next, reserving my right to speak after Senator HATCH, in the hopes that my colleague from Montana could be recognized after my remarks so we maintain the balance of speakers on either side of the aisle. I also ask unanimous consent that for the duration of the consideration of this conference report Mr. Jason McNamara, Ms. Catharine Cyr, Mr. Brian O'Hara, and Mr. Michael Magidson of my staff be accorded floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague for allowing me to make my remarks ahead of his. It is very accommodative and I appreciate it.

Mr. President, today we will cast one of the most important votes of the 105th Congress. Today, we vote to enhance the power of the individual taxpayer and to reduce the opportunity for abuse by an arm of the federal government. We will vote on the conference report to H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. This legislation is a tremendous leap forward in enhancing the credibility and effectiveness of the IRS.

But Mr. President, this bill is about more than just changing the way one federal agency works. This bill is about reflecting American values and priorities; it is about remembering who the federal government is here to serve and what it is here to do.

Of all the powers bestowed upon a government, the power of taxation is the one most open to abuse. As the agency responsible for implementing and enforcing the tax laws that we here in Congress pass, no other agency touches the lives of American citizens more completely than the IRS.

I believe that Americans understand and appreciate that they have to pay taxes. Without their tax dollars, there would be no national defense; no Social Security, Medicare, or Medicaid; no environmental protections; no assistance

for education or job training; no national parks, food inspection, or funds for highways and bridges.

But, everywhere I go in Utah, I hear from my constituents about their frustrations. My office receives numerous letters each month detailing taxpayer interactions with the IRS. It seems that everyone has had, or knows someone who has had, a bad experience with the IRS. This adds to the impression of the IRS as an unfeeling, impersonal machine that will run roughshod over anyone in its way.

I, myself, have seen abuses at the hands of the IRS. One of the reasons I ran for the U.S. Senate over twenty years ago was because of the abuses I saw. As an attorney, I had occasion to represent taxpayers against the IRS. The treatment these taxpayers received appalled me—and that was twenty years ago. The stories have not changed all that much over the years; in fact, they seem to be occurring more and more frequently.

The stories range from small annoyances such as unanswered phones or long periods of time spent on hold to shocking abuses such as unwarranted seizures of assets or criminal investigations being based on false information for the purpose of personal revenge. It is small wonder that the taxpayers are scared and frustrated. These stories illustrate a disturbing trend. They are dramatic reminders of the failure of Congress to exercise adequate oversight over a powerful federal agency.

I have been here long enough to know that we are never going to be able to achieve a system where people do not get frustrated about paying their taxes—both the process of paying taxes and the amounts. Let's face it: paying taxes is not something we will ever enjoy doing.

We must, however, achieve a system of collection that is efficient, fair, and, above all, honest. While not perfect, the conference report before us today moves us a long way toward a better system.

During our oversight hearings and through letters to my office, I have heard several horror stories from taxpayers, innocent spouses, IRS employees, and those who have been the subjects of criminal raids and investigations. While these are the minority of the cases dealt with by the IRS, they still illustrate the nature of the abuses occurring.

We are not talking about appropriate enforcement of the law. We are talking about heavy-handed abuses of enforcement powers. At best, such tactics are counterproductive; at worst, it is reprehensible behavior by big government. It must stop.

The conference report before us is a comprehensive approach to reforming the IRS. No one provision can stand alone as the silver bullet that brought down the bear. Taken as a whole, however, this legislation provides a strong foundation for a new IRS by changing the way the IRS operates and interacts with individual taxpayers.

The bill before us today gives the IRS Commissioner great flexibility to carry out a fundamental reorganization of the agency. But, it also places the IRS under an independent, mostly private sector board to oversee the big picture of operations at the agency. Through this board, the American taxpayer will now have a focused advocate examining the operations of the IRS and input into the way the agency runs. These are two very important elements to creating a new culture at the IRS: responsible leadership and accountability.

I commend the new Commissioner for the steps he has taken so far to rectify these problems at the IRS, and I encourage him to keep going. And, I hope he will not feel constrained by "business as usual" attitudes among those who have an interest in maintaining the current methods. I hope the new Commissioner will shake the dead wood out of the trees.

But, Mr. Rossotti needs to know that Congress will hold him and the agency accountable. And, our expectations—and the expectations of the American people—are not hard to fathom.

We do not expect tax delinquents or cheats to go undetected or unpenalized. But, we do expect the IRS to enforce our tax laws appropriately. We expect the IRS to assist taxpayers to understand and comply with complicated laws and regulations. We expect taxpayers to be treated courteously. We expect taxpayers' questions to be answered promptly and their returns processed efficiently. And, we expect any penalties to fit the crime.

Today, we will vote on a bill that takes a leap forward in eradicating a culture that has allowed corruption and abuse to occur over and over again and to taint the efforts of honorable IRS employees. There has been a lot of talk about changing the IRS into a service-oriented agency, and the bill before us goes a long way towards doing just that. We cannot stop there, however.

While customer service is an important part of the equation, we must go further and address taxpayer rights. The conference report removes taxpayers from the reach of IRS excesses by instituting over 70 new rights and protections. The way the taxpayer deals with the IRS, individual IRS employees, and the courts will be changed.

The conference report shifts the burden of proof in selected situations off of the taxpayer and onto the IRS. It also ensures that compromise is more accessible to taxpayers by making offers-in-compromise and installment agreements easier to achieve and the terms of these agreements more flexible.

The conference report also contains some much-needed assistance for innocent spouses. The understatement thresholds are lowered and it is now easier for taxpayers to receive innocent spouse protections. In addition, limited proportional liability will now be

available to a spouse who is legally separated and living apart for at least one year from the person with whom a taxpayer originally filed a joint return.

Interest and penalty accrual will be suspended after a year in some cases when the IRS fails to notify a taxpayer of a liability for additional taxes within 18 months of filing a tax return. This period will be shortened to within one year of filing the tax return after the year 2004.

The conference report also makes significant changes to the Taxpayer Advocate's Office to ensure that it will be an empowered and independent voice for the taxpayers.

A long list of procedural due process safeguards are also provided in reaction to IRS collection abuses. These include a 30-day period to appeal before liens and levies are put into place, early referral to a strengthened and more independent appeals division, and implementation of fair debt collection practices.

The conference report increases congressional accountability for the performance of the IRS through provisions such as streamlined congressional oversight and an independent voice for the IRS in the tax-writing process.

This legislation also contains legislative incentives for tax law simplification by requiring a tax complexity analysis for new legislation.

In this vein, the conference report goes one step further and simplifies one of the most embarrassingly complex computations for today's taxpayers by retroactively reducing the holding period to qualify for the preferential capital gains tax rate from 18 months to 12 months. This provision not only simplifies the process, it also reduces capital gains taxes and encourages further investment.

The legislation before us today will fundamentally change how the IRS works. It is a necessary and bold set of initiatives. But, we cannot just declare victory and bask in the glow of a job well done. We must remember how we got to this point in the first place.

The IRS was not born evil, and it is not an inherently bad organization. Rather, it has suffered from decades of neglect and inadequate oversight. Once we have set the agency on the road to recovery and given it the tools it needs to move forward, we must continue to guide it and ensure that the agency continues down the right road. Passage of this bill does not mean we can pat ourselves on the back and tell ourselves what a great job we did.

We must continue to exercise our oversight responsibility. We must have continued hearings, reviews, and cooperation. We must remain vigilant in our search for areas where further reform is needed and ways to simplify the tax code. Left alone, any entity with power and authority will lose its way. Without continued oversight and cooperation, we will soon see this debate repeated on the Senate floor.

This legislation can be summed up in one word—accountability. For too

long, the IRS and its employees have operated in an environment with little or no accountability. This bill changes all that. The legislation before us makes individual IRS employees accountable for their actions. It makes management more accountable for the treatment given taxpayers and other employees. Finally, it makes the agency as a whole more accountable to the Congress and the American taxpayer.

This debate has focused largely on the negative—and there is plenty of negative to focus on. But, we must also put these abuses and misdeeds in perspective. I believe that they are the exception and not the rule. Just as a vast majority of the taxpayers are honestly trying to comply with the tax code, the vast majority of IRS employees are honest and hard working individuals doing their best in a very difficult and unpopular job.

Yes, abuses do occur, and we must reform the system to prevent improper activities. At the same time, we must make sure that we acknowledge those employees who are doing their jobs with competence and integrity. I have to look only as far as my own state of Utah to find numerous examples of this type of employee.

I'd like to take a moment to recognize the exemplary work of several IRS employees in the Ogden, Utah, office of the IRS. I daresay that my colleagues could find IRS personnel in their states who share this dedication to service.

Milt Flinders has worked with the IRS for 26 years, 13 of them as a manager. He currently has 20 IRS employees working under his supervision. Mr. Flinders has great management skills, and has a well-known reputation for being fair both to IRS employees and to the taxpayers with whom he comes in contact.

Avon Wales has worked with the IRS for 20 years. She currently works as an office collection representative/revenue officer aide. Ms. Wales is a very conscientious employee who makes sure she knows the relevant rules and procedures regarding each case she works on. She treats taxpayers with kindness and patience, often putting in hours at a time with an individual taxpayer who is confused about the rules or needs additional assistance.

Susan Vail, a revenue officer, has worked with the IRS for 31 years. She makes sure she stays current with the complex laws and procedures surrounding the collection of taxes—no easy task there. She is fair and evenhanded in her dealings with taxpayers. She gets positive marks from her supervisors and other IRS employees, but, perhaps most importantly from taxpayers themselves who have worked with her.

These three, and other employees like them, are the reason that most taxpayers today, even if frustrated by the forms and irritated with the amount of their tax bill, continue to comply with our voluntary tax collection system. Thank goodness for these employees.

Is this conference report perfect? No. There are some things I would like to see changed. For example, I have some serious concerns about the creation of an accountant-client privilege in this context. I am concerned that we are using the Internal Revenue Code to effectively amend the Federal Rules of Evidence. We have a clear procedure for amending these rules already set out. Changing these rules is no simple matter. It should only be done through careful, deliberate evaluation of the change and the effect it will have on the judicial system. It should only be done with input from the Judicial Conference of the United States and others.

Despite these misgivings, I want to reiterate the importance of the bill before us today. The IRS touches more taxpayers in more aspects of their lives than probably any other agency. The American taxpayers have every right to expect a higher level of professionalism, customer service, and fair treatment from an agency charged with enforcing the law in an area as important and pervasive as is the area of taxation.

The conference report before us stays true to the ultimate goal of the IRS reform legislation—it protects both the honest taxpayer trying to comply with our complex tax laws and those honest employees struggling to enforce an almost incomprehensible set of tax laws with integrity. This conference report takes on and accomplishes the difficult task of striking the right balance between granting taxpayers the experience of paying taxes without abusive treatment while providing the tools necessary to fund the Government.

There is no question that we have come a long way, with this bill, to resolve many of the conflicts and problems that do exist between taxpayers and those who serve the taxpayers at the IRS. This bill makes gigantic steps forward, to try to make the system more fair. I think we on the Finance Committee and those on the Ways and Means Committee in the House have certainly all worked very hard to get this done.

In particular, I commend Senators ROTH and MOYNIHAN, Representatives ARCHER and RANGEL, and my colleagues on the IRS Conference Committee for the hard work they put into crafting the conference report before us today. I was proud to add my name to the conference report as a conferee. I wholeheartedly support its passage and urge my colleagues to do the same.

This is the right thing to do. Once we have this done, then, it seems to me, Democrats and Republicans have to get together to see if we can simplify our tax system in whatever way is best in the interests of the taxpayers of America. This is only step one, but it is an important step. It is a step that will make a lot of difference in people's lives. It is a step that will make this system much more fair than it has been in the past.

But it is only the first step. If we can get together and come up with a way of simplifying the Tax Code so everybody can fill out their own tax forms, for the most part, and also make it more fair to everybody in America, then I think in the end we will have done things that no other group of people in the history of our country would have done. I know we have colleagues here on both committees, the Finance Committee and the Ways and Means Committee, who have the capacity to do this, both on the Democrat side and on the Republican side. I call on all our colleagues to do that, whether it be by a flat tax, a value-added tax, a sales tax, or any other of a number of approaches. We have to look into this and get this code so it is not the monstrosity that we all know it to be today.

Having said this, I thank again my dear colleague from Florida for his kindness and also my colleague from Montana. I appreciate their deferring to me so I could make these few remarks. I really appreciate it. Thanks very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I wish to express my appreciation to my colleague and good friend from Utah for his kind remarks, as well as for his excellent analysis of this legislation. I join him in the same enthusiastic reform of the Internal Revenue Service and see this as an important chapter in a longer book which will soon bring us to the pages of simplification of the Internal Revenue Code.

Mr. President, this legislation does mark a new era for the Internal Revenue Service. The hearings that we had disclosed some of the culture of the IRS as it has operated in the past. We focused on how to change that cultural orientation. Let me just mention three areas that we uncovered.

One was typical of many large organizations, public or private, and that is a loss of focus on the mission and a tendency to become too internal in the way in which issues were reviewed. That tendency to become incestuous, to answer questions based on what is in the best interests of the organization rather than what is in the best interests of the customers—in this case, the taxpayers served by the organization—is, unfortunately, a typical transformation and a transformation which we found that the IRS had succumbed to. The new IRS will begin to analyze issues from the perspective of their customers, the American taxpayers, and, with that new reorientation, will become more effective in carrying out its mission and will be seen by the taxpayers as being less intrusive in their lives.

A second aspect of the old IRS was its evaluation of employees based on how much money was collected. This is analogous to a police department which requires its officers to issue so many parking tickets or speeding tickets per day. It changes the priorities, it

changes the perspective, it changes the public respect of the organization. I am pleased that the new IRS will evaluate employees based on how they deal with taxpayers as well as on their collection efforts.

A third factor in the old IRS was the tendency to threaten taxpayers with enforcement action if they didn't agree to extend terms of payment or enter into other measures that would make tax collection easier for the IRS. We had an example of this recently, in which the IRS—and I commend them for having come forward with this—became aware that there were threats being made to taxpayers who already had entered into a multiyear installment payment, where a portion of that installment payment would be beyond the statute of limitations, beyond the reach of the IRS. Taxpayers in that circumstance were being threatened that, if they did not agree to waive the statute of limitations, they would be subjected to immediate cancellation of their installment agreement and required to make full payment at that time.

The IRS had uncovered that there were approximately 22,000 instances of that improper threat and are in the process of notification. I am pleased to say on June 29 of this year, in Tampa, FL, the first actual check of over \$1,500 was paid to a taxpayer as a refund because of the consequences of such a threat.

Mr. Carl Junstrom, who was the taxpayer receiving that refund, has become a hero of American taxpayers because of his efforts to overcome the travails to which he was subjected and now has become a symbol that individual taxpayers can prevail in their own cases and can benefit many thousands of others.

One of the significant parts of this reform effort is that it was a grass-roots-up effort. It was an effort that didn't start by Washington telling American taxpayers what their problems with the IRS were, but rather listening, understanding, and then being willing to act on what we had heard.

This is in the best tradition of democracy. Many of these individual issues came to the attention of the IRS and to congressional offices through taxpayers who had specific problems with the IRS, and they brought them to the attention of a taxpayer advocate in the IRS or to their Member of Congress.

That kind of information began to accumulate, and it was seen that the problems were not specific and focused, but rather began to disclose a pattern of IRS problems, a pattern of needs for taxpayers to have a new relationship with their tax collection agency.

Those individual taxpayer concerns then became the focus of hearings that were held by the Senate Finance Committee and the House Ways and Means Committee. Some of those were held here in Washington; others were held across the Nation. In January of this

year, I participated in such a hearing with Congresswoman KAREN THURMAN in Orlando, FL, in which we heard, again, some of the specifics of taxpayer concerns which had previously been the subject of specific constituent complaints. Let me just mention a couple of those.

Karen Andreasen, from Hillsborough County, FL, when filing for divorce discovered that her soon-to-be ex-husband had failed to file tax returns for 1993 and 1994. She then found that the IRS, having launched its case against her ex-husband, swiftly turned its attention to her. Tax liens were placed on her home; the bank holding her mortgage threatened her with foreclosure.

A separation or divorce is painful enough for both of the parties and the children and others who are affected, without suddenly realizing—like Karen Andreasen, a spouse who had placed confidence in her ex-husband and signed joint returns—they are subject to a deficit of thousands of dollars in back taxes on income they never earned and on tax returns that they never understood.

Congress has now recognized the problem of Karen Andreasen and, in this legislation, we have provided that divorced or separated spouses can elect to be responsible for only their proportionate share of the taxes.

We have also liberalized the circumstances under which other taxpayers may obtain innocent-spouse relief, and we have made this retroactive to currently opened cases so that Karen Andreasen and thousands of other spouses like her will be able to get the benefit of these new provisions.

Thomas Jones was a decorated Naval veteran from Clearwater, FL. His business partner absconded with the company's payroll taxes. Mr. Jones did what a responsible citizen should do: He notified the authorities. IRS initially thanked him for his assistance, then proceeded to hold him 100 percent responsible for the partnership debt. Under pressure and unable to afford legal representation, Mr. Jones elected a monthly payment plan.

When I met with him at an IRS reform hearing in Orlando, he told me that he was bankrupt. Interest and penalties were piling up at a staggering \$2,000 a month. Twice during his 13-year-long fight, Thomas had offered to compromise with the IRS, but was summarily rejected by the same collection agent who a few days earlier had been bugging him for additional money.

Good news. Thomas Jones may be the last taxpayer to suffer from such unfair conflict of interest, because this reform legislation expands the authority of the IRS to accept offers of compromise and guarantees to Americans an independent third party review of their offers and compromise. This will prevent the same IRS division from serving as prosecutor, judge, jury and executioner.

Mr. President, those are just two examples of Americans with specific

problems who now have contributed to relief for themselves and for thousands of current and future taxpayers.

There are some lessons in this experience which I think we in Congress need to understand, appreciate and absorb into our future actions.

First, much of our success, in addition to taking advantage of the experiences of individual Americans, was the result of an IRS reform commission which was established 2 years ago. I applaud Senator GRASSLEY, who is with us this afternoon, and Senator BOB KERREY, for the work they did on that IRS reform commission. That gave to us the basis of thoughtful recommendations and analyses which substantially accelerated the work of the Congress and the effectiveness of that work.

This indicates to me that we need to commit ourselves as a Congress to ongoing oversight of the IRS; that we can't wait until there is an occasional commission formed to review this matter; that we must have an ongoing responsibility to see that this agency does not slip back into the patterns of conduct that necessitated the legislation that we will be adopting later today.

Second, we must recognize that this is but a chapter in the larger book of how to make the Internal Revenue Code more understandable, more appropriate, more taxpayer friendly. I suggest that the next chapter, which will be simplification of the Tax Code, use some of these lessons that we have just learned. That it, too, take advantage of the experience of individual Americans in what they would like to see, based on their own experience, in a more simplified tax structure for America; that we look to the use of expert panels, such as the IRS reform commission, to help give us indepth advice and advance our ability to engage in this next step of simplification of the Tax Code.

My own sense is that a third lesson learned is that Congress can make substantial steps if it does it in digestible increments. I suggest that as we look at the Internal Revenue Code we ask the question: What are the building blocks of the Internal Revenue Code? How can we take each of these blocks in turn and systematically have it reviewed based on taxpayer experience, based on expert review and then, finally, congressional hearings and congressional action?

I believe if we take that digestible, incremental approach, in a reasonable period of time we will be able to say to the American people that we have reformed not only the administration, but also the Tax Code itself, and reformed it in a way that will make it more understandable and more acceptable to the American taxpayer.

I conclude by applauding Senator ROTH for his great leadership and Senator MOYNIHAN in holding the hearings that first exposed the problems of the IRS. I urge that we continue our active involvement as we see that this legislation achieves its intended result and

move to the next chapter of simplification of the Internal Revenue Code.

Mr. President, this is a happy day. I will, with enthusiasm, join what I am confident will be a large majority of my colleagues in voting for this conference report which will move us substantially towards the goal of an IRS Code that all Americans, that all those affected by its administration, will feel prouder about as citizens and will make their task of compliance with their tax responsibilities somewhat easier. Thank you, Mr. President.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader, Senator LOTT, is recognized.

Mr. LOTT. Mr. President, will the Senator from Montana allow me to make a brief statement before he proceeds?

Mr. BAUCUS. The Senator from Montana is absolutely delighted to allow the majority leader to proceed.

UNANIMOUS CONSENT REQUEST— EXTENDING TIME TO FILE FIRST DEGREE AMENDMENTS TO S. 648

Mr. LOTT. Mr. President, as all Members are aware, when a cloture motion is filed in the Senate, the provisions of rule XXII, the cloture rule, require all first-degree amendments must be filed at the desk by 1 p.m. the day before the cloture vote occurs.

Last evening, I filed cloture on the substitute amendment to the product liability bill. Realizing and observing how upset the Democratic leader was when cloture was filed last night, I checked with the desk as to exactly how many amendments had been filed to the product liability bill by our Democratic colleagues. To my dismay, earlier only two had been filed, but still a very small number, and only 21 Democratic amendments have been filed, and it is almost 1 p.m., the deadline time.

The Democratic leader stated last evening that many Members on his side of the aisle had amendments they wish to offer on this bill. And he also stated, "It is the right of all Senators to fulfill the functions of their responsibilities to offer amendments." Well, where are the amendments? And why have Members on the Democratic side of the aisle chosen not to file amendments within the timeframe that is outlined under rule XXII?

Could it be that our colleagues had never been prepared to exercise their right to offer amendments when it comes to the legislation? Instead, have our colleagues on the other side of the aisle just decided they would vote against cloture with the intention of never attempting to offer amendments that would have been intended, I am sure, to "improve the bill," as Senator DASCHLE suggested?

Since there have only been 21 amendments filed, it seems to me that maybe our Democratic colleagues are not serious about addressing this important

issue which is, by the way, a bill that has been laboriously worked out. It is a compromise bill. Senator GORTON of Washington, Senator ROCKEFELLER of West Virginia, have spent hours, days, months working on this. And this legislation has been approved by the administration, by the White House. They have indicated they would sign it. So why in the world would there not be a serious attempt here to pass this legislation?

But having said all that, I am prepared to offer a consent agreement that would extend the filing time for first-degree amendments until 5 p.m. this afternoon, if that would help accommodate our colleagues on the Democratic side or, for that matter, on the Republican side.

Therefore, I do now ask unanimous consent that, notwithstanding rule XXII, that the filing deadline for the first-degree amendments with respect to the product liability bill be extended to 5 p.m. this afternoon.

The PRESIDING OFFICER (Mr. GREGG). Is there objection?

Mr. BAUCUS. Reserving the right to object, I consulted with my Democrat colleagues, knowing this request would come up, and it is our belief that the consent should not be granted. Accordingly, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I yield the floor, Mr. President.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

INTERNAL REVENUE SERVICE RE- STRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BAUCUS. Mr. President, I would like to speak a little bit about the conference report that is before us, the IRS restructuring bill.

Today, the Senate reaches the end of a journey that has been 2 long years in the making. It is actually a journey that began a couple years ago when the National Commission on Restructuring the IRS was charged with investigating the IRS' repeated failure to modernize its computer systems. There are many stories of the IRS computer systems falling down, crashing, systems not meshing; and essentially the commission felt that it was their charge to try to find the answer to all these problems.

It became very clear, Mr. President, as the commission began trying to find a solution to the computer problems, that it was just touching the tip of the iceberg, that there are a lot more problems in the IRS that had to be addressed; namely, the abuse of too many agents, too many rogue agents, the insensitivity, too often, of its IRS employees toward taxpayers. Frankly, it led the commission to dig much more deeply into problems facing the IRS.

Accordingly, the commission proceeded to look at other areas in addition to computers. The commission probed various problems that the taxpayers face in our country.

Under the leadership of Senators KERREY and GRASSLEY and Representatives PORTMAN and COYNE of the House, the commission, I think, produced a series of very good recommendations that have become the foundation of the bill before us.

Again, it was a restructuring commission. They spent a lot of time looking at the problems of the IRS. They presented their recommendations to the Congress, and essentially, the bill before the Congress today is the manifestation, the outgrowth of those recommendations by the commission.

In addition, Mr. President, under the leadership of our chairman of the Finance Committee, BILL ROTH, with his very extensive hearings, we were able to draw out many more abuses, many more problems that our American people were facing with the IRS. As a consequence, I think we have a better bill. We were able to fine-tune some of those Restructuring Commission recommendations. In fact, we were able to add a few more. So altogether, I do think it is a combination of very good effort on the part of both the commission and the conference. And I think, Mr. President, that the result is going to turn out to be quite good for the American people—not perfect, but certainly an improvement.

Justice John Marshall once said, "The power to tax involves the power to destroy." We all know that the corollary to that is that the power of the tax collector must be very carefully balanced, because the tax collector, him or herself, has inordinate power when he or she tries to collect taxes. Any tax collection agency must be strong enough to make sure that everyone is paying his or her fair share of taxes, but not so powerful as to trample on the rights of ordinary citizens.

It is quite clear, through the testimony of our witnesses before our committee and comments from our constituents at home, that the IRS has lost that balance over the years.

Let me give you one example.

This is a plea for help from a constituent of mine in Montana. "The problem with the IRS started in 1997. John"—that is not this person's real name—"and I"—in this case it is John's wife—"had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business [that we had] was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an agent] stating that he had 'tracked' us down and expected a phone call or [else] action would be taken. I promptly called him to find out [what was going on]. He was very rude and reluctant to give me any information, [saying he could not talk to me, did not want to talk to me